



COUNCIL MEETING NOTICE/AGENDA

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DATE: Wednesday, September 21, 2011
TIME: 10 a.m. – 5 p.m.
LOCATION: Hilton Sacramento Arden West
2200 Harvard Street
Sacramento, CA 95815
(916) 922-4700

Pursuant to Government code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in this meeting should contact Robin Maitino at (916) 322-8481 or email robin.maitino@scdd.ca.gov. Requests must be received by 5:00 pm, September 14, 2011.

**Denotes action items*

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| 1. | CALL TO ORDER | L. Shipp |
| 2. | ESTABLISHMENT OF QUORUM | L. Shipp |
| 3. | WELCOME/INTRODUCTIONS | L. Shipp |
| 4. | PUBLIC COMMENTS | |

*This item is for members of the public only to provide comments and/or present information to the Council on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

5.	*APPROVAL OF JULY MEETING MINUTES	L. Shipp	3
6.	*2011-12 DDS BUDGET UPDATE	T. Delgadillo	12
7.	* REGIONAL CENTER CONFLICT OF INTEREST WAIVER REQUEST- PROPOSED REVIEW PROCEDURE	M. Corral	83
8.	*RCRC CONFLICT OF INTEREST WAIVER RENEWAL REQUEST	M. Corral	97
9.	MERIT SALARY ADJUSTMENTS BRIEFING	M. Corral	106
10.	COMMITTEE REPORTS		
	A. EMPLOYMENT FIRST	C. Risley	
	B. EXECUTIVE	L. Shipp	110
	(i) Executive Director Evaluation. <i>Closed session pursuant to Government Code, section 11126 (a) (1) to consider the appointment, employment, evaluation of performance, or dismissal of a public employee.</i>		
	*(ii) Executive Director Evaluation. <i>Reconvene in open session pursuant to Government Code, section 11126.3 (f).</i>		
	C. SELF-ADVOCATES ADVISORY COMMITTEE	J. Allen/ Mark Starford	
	This will include a presentation of current self-advocacy projects as well as plans for the coming year		
11.	COUNCIL MEMBERS' REPORTS/COMMENTS	ALL	
12.	CHAIRPERSON'S REPORT	L. Shipp	
13.	EXECUTIVE DIRECTOR'S UPDATE	C. Risley	
14.	ADJOURNMENT	L. Shipp	



DRAFT

Council Meeting Minutes July 27, 2011

Members Present

Jorge Aguliar
Jennifer Allen
Michael Bailey
Catherine Blakemore
Dan Boomer
Ray Ceragioli
Lisa Cooley
Terri Delgadillo
Shirley Dove
Denise Filz
Marcia Good
Robin Hansen
Dean Lan
Bill Moore
Patty O'Brien-Petterson
Olivia Raynor
Wayne Sauseda
Leroy Shipp
Steve Silvius
Jennifer Walsh
Kerstin Williams

Members Absent

Lora Connolly
Max Duley
David Mulvaney

Others Attending

Dena Hernandez
Robin Keehn
Molly Kennedy
Angie Lewis
Robin Maitino
Dawn Morley
Carol Risley
Margaret Shipp
Rocio Smith
Vicki Smith
Mark Starford
Matt Silvius
Denise Curtwright
Sam Seaton
Joe Bowling
Chris Arroyo
Chad Carlock
Barbara Maize
Mary Agnes Nolan
Melissa Corral
Tony Anderson
Eric Gelber
Larry Lindauer
Tresa Oliveri
Roberta Newton
Cary Kreutzer
Anastasia Bacigalupo
Betty
Caleb Burrough
Peter Bowers
Phil Bonnet
Catherine Godlewski
Andrew Trapps

Charles Haukin
Robin Ladarre
Mary Ann Williams
Daveen Lucido
Andrew Camboa
Dwight Hansen
Raul Arambula
Betsy Katz
Candice Ortiz
Daniel Winters
Maricela Morales
Frank Jimiez
Mathew Shipp
Joan Burg
Sandi Soliday
Josh Sullivan
Caroline Ortiz
Inroads (Antioch)
5 people (signatures
unreadable)

1. CALL TO ORDER/ESTABLISHMENT OF QUORUM

Leroy Shipp, Chairperson called the meeting to order at 10:00 a.m. and established a quorum present at 10:05 a.m.

2. WELCOME AND INTRODUCTIONS

Council Members and others attending introduced themselves.

3. PUBLIC COMMENT

Molly Kennedy passed around a t-shirt she received from a week-long training for individuals with developmental disabilities who would like to go to college. The training was hosted by United Cerebral Palsy in San Diego.

Tony Anderson with the ARC announced that the Autism Now Regional Summit was taking place in Los Angeles on July 30 and 31, 2011. He also acknowledged federal partners Curt Decker from the National

Disability Rights Network and Mike Brogioli from the DD Council Network.

Peter Bowers discussed training for consumers and families on the need for individual program plans; and talked about the need for oversight of the regional center system.

Dan Boomer briefly discussed post secondary education and his volunteer efforts over the last year providing training to families and consumers across California.

Carol Risley announced that on August 23, 2011 from 1:30-4:30 at the Capitol, the Assembly Human Services Committee will be holding a hearing on Employment First. SCDD has invited Bill Kiernan to speak from a national perspective and Olivia Raynor to represent the Council.

Olivia Raynor announced that she will be attending a congressional briefing to discuss post-secondary education for persons with intellectual disabilities in Washington D.C. on July 28, 2011 at the invitation of the Congressional Black Caucus.

4. APROVAL OF MAY 25, 2011 MEETING MINUTES

It was moved/seconded (Silvius/Bailey) and carried to approve the May 25, 2011, Council meeting minutes as presented. (1 abstention)

5. COMMITTEE REPORTS

a. EMPLOYMENT FIRST

i. Draft Employment First Report

Olivia Raynor presented the revised draft Employment First report to the Council. Revisions were made based on input from the May 25, 2011 Council meeting. The report represents the first annual report to the Governor and Legislature in response to the mandate to make recommendations to increase the employment of persons with developmental disabilities.

Dr. Raynor then opened the matter for discussion. There were extensive comments from the public which generally opposed the

proposed employment first policy because of a sense that it limited consumer choice and that day programs would close, thus taking services away from consumers. Following public comment, Council members discussed the proposed policy at length. Marcy Good then "called for the question". The "call" was approved. (9 yes, 5 no, 5 abstentions, 2 not voting). It was then moved/seconded (Bailey/Good) and carried to approve the Employment First report as presented. (15 yes, 2 no, 4 abstentions)

ii. Project of National Significance – Employment

Olivia Raynor discussed the Project of National Significance grant which was announced by the Administration on Developmental Disabilities (ADD) within the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

The funding opportunity is for \$2.2 million of fiscal year (FY) 2011 for projects developed by consortia that demonstrate a collaborative approach to creating employment systems change at the state level on behalf of youth and young adults with developmental disabilities including youth and young adults with intellectual disabilities.

Dr. Raynor requested that the Employment First Committee serve as the advisory workgroup for the grant if it is awarded. After extensive discussion, it was moved/seconded (Hansen/Silvius) and carried to approve that the Council's Employment First Committee serve as the advisory work group for the grant if it is awarded.

b. SUBCOMMITTEE ON STRATEGIC PLANNING

No report.

c. CONSUMER ADVISORY

Jennifer Allen reported on the July 26, 2011 Consumer Advisory Committee (CAC) meeting. The CAC adopted of the Council's Strategy Plan goal #1 as a priority for the Committee and agreed upon the following Committee mission statement:

"Be a voice for all Californians with disabilities, promoting participation and peer advocacy to advance independence and inclusion."

The Committee also discussed building a statewide self-advocacy network.

d. LEGISLATIVE AND PUBLIC POLICY

Ray Ceragioli reported on the Legislative and Public Policy Committee. He went over the highlights of the approved 2011-12 State Budget. He also went over the latest SCDD legislative update.

e. EXECUTIVE

The Council took action on three (3) issues as it pertains to Regional Center Conflict of Interest Waiver Requests:

It was moved/seconded (Good/Ceragioli) and carried to approve to develop guiding principles and a process for Council consideration on waiver requests.

It was moved/seconded (Delgadillo/Silvius) and carried to approve that the full Council make the decisions regarding Conflict of Interest Waiver requests.

It was moved/seconded (Ceragioli /Bailey) and carried to approve the RCOG Conflict of Interest Waiver Request. (14 yes, 2 no, and 1 abstention [Terri Delgadillo])

6. **COUNCIL MEMBER REPORTS/COMMENTS**

Bill Moore – the Department of Rehabilitation's (DOR) budget remains stable for 2011-12 year. There have not been any reductions in the portion of the budget specifically related to consumer services.

DOR is on target for exhausting the \$62 million that was awarded to the Department in ARRA funds.

Effective January 1, 2012, the Governor's Committee on Employment of People with Disabilities will be transferred to DOR and renamed "California Committee for Employment of People with Disabilities."

The Youth Leadership Forum (YLF) is going on this week in Sacramento. The forum is a leadership program for students with disabilities in the 11th and 12th grade.

Lisa Cooley – stated that she does not believe that people should compare disability to choice.

Steve Silvius – reported that the disaster preparedness micro-business that Matthew has started is doing well and thanked everyone for their support.

Robin Hansen – UCD's annual conference on Neural Developmental Disabilities at Sacramento state starts on Friday, August 5, 2011. There will also be a self-advocacy workshop presented by Barbara Glazer and a colleague from Southern California on Thursday, August 4, 2011.

The new M.I.N.D. director is arriving from Wisconsin soon. He is a former UCEDD director and brings a lot of experience with ADD and UCEDD.

Denise Filz – The new Executive Director for Area Board 9, Anastasia Bacigalupo, started and in attendance today.

Area Board 9 is, in conjunction with the Board Resource Center and State Council, designing a Legislative Advocacy Handbook and DVD. Release of the handbook is scheduled for late August.

Shirley Dove – Encouraged people that are speaking on behalf of a consumer to use the consumers' own words.

Cary Kreutzer – Passed out two handouts to the Council members. The information sheet entitled "What is Autism?" in both English and Chinese. Cary has taken the lead to translate this document into 12 different languages.

Cary also discussed UCEDD's involvement in the Consumer Guide to the Lanterman Acts translation to plain language for individuals with developmental disabilities.

Terri Delgadillo – Thanked the Council, DRC, and other partners for stepping up and participating in the budget workgroup meetings. The workgroups came up with a package that has been adopted by the Legislature.

Terri reported on the renewal of the Home and Community-Based (HCBS) waiver, noting that all consumers using vouchers must now use a Financial Management Agent.

Emergency regulations addressing the March/June trailer bill language are forthcoming.

Terri talked briefly about legislation enacted that related to the budget "trigger." The "trigger" is activated if the State does not achieve the revenue anticipated (roughly \$4 billion) in the current budget year. There are two triggers for reduction. If the State determines it will receive \$3-4 billion, no trigger is pulled; \$2-3 billion, trigger one is pulled. The first trigger has a list of programs slated for reductions and developmental services is one of them. If this happens the Department of Finance could direct DDS to make reductions. The majority of the reductions can be made without legislative action. If the budget falls even further, there would be a second trigger activated which would likely impact everyone.

DDS has been working on a number of different things relating to autism, including the Autism Treatment Guidelines. There were a number of concerns relating to the release of the guidelines because the data was dated, going back to 2007. The workgroup decided to pull the research data out of the guidelines and post it on the DDS website instead so that it is available to the public. DDS has also commissioned the same researchers to update the data.

Dan Boomer – Discussed the Special Education Division and its lack of funding for the last several years. The Department of Education has however had opportunity to pick up the mental health services for school-aged children.

Dr. Boomer also stated that this division collects a lot of data from preschool all the way up through post-school outcomes. They provide technical assistance, workshops, and have a mandate to develop a plan with several partners.

Jennifer Walsh – Suggested that Area Board 5 use Survey Monkey to survey consumers on how the new legislation is affecting the community.

Kerstin Williams – Reported that Area Board 6 met on July 26, 2011 in Sonora. They welcomed three new board members and are helping host the next area regional meeting in Modesto. There will be two presentations, one on the Memorial Project and one on the State Budget. Area Board 6 is anticipating over 250 advocates in attendance.

The next Area Board 6 meeting will be September 27, 2011 in Stockton.

Catherine Blakemore – DRC is in the process of developing fact sheets in a consumer-friendly language about each of the areas in which there was a DDS budget reduction. The factsheets will be available in multiple languages.

Additionally, if people have individual assistive technology difficulties DRC will have clients' rights advocates or staff to assist.

DRC continues to be involved in litigation related to some of the budget reductions.

Michael Bailey – Attended the OCTA public hearing in Laguna Hills at the end of June 2011. There were over 200 people that attended. Discussion focused on the transit usage study which is trying to eliminate a lot of bus routes and segments of bus routes and bus stops in the South Orange County area. As a result of the public input these meetings, efforts to eliminate these routes have slowed down.

Michael also attended the People First Orange County meeting in early July. Topics included talk about the community activities that are upcoming; and voting to change the name of the chapter.

Additionally, Michael attended the Area Board 11 meeting and received reports from Cal Optima, IHSS, and RCOC.

Jennifer Allen – Shared the award she will be presented at upcoming Supported Life Inclusion Celebration for her work with supportive life and high school transition.

Marcia Good – Announced the upcoming Area Board 10 Annual meeting. Area Board 10 will be discussing the strategic plan and goals for next year. Area Board 10 has taken a position on 14 state bills and several federal bills.

7. CHAIRPERSON'S REPORT

Leroy Shipp reminded all Council members to get their executive director evaluations into him.

8. EXECUTIVE DIRECTOR'S UPDATE

Carol Risley thanked Chris Arroyo for all of his hard work on the Employment First Report. She also applauded Rocio Smith and Roberta Newton on their work on the State Plan.

Carol talked about our increased involvement in the California Collaborative.

A new Associate Information Systems Analysis started on July 20, 2011. SCDD has also added two new Community Program Specialist at the local level.

Carol will be meeting with the Governor's Appointments Secretary on August 2, 2011 to discuss vacancies.

9. ADJOURNMENT

Meeting was adjourned at 3:15 p.m.

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: 2011-12 State Budget Update

BACKGROUND: The 2011–12 state spending plan includes total budget expenditures of \$120.1 billion from the General Fund and special funds. This consists of \$85.9 billion from the General Fund and \$34.1 billion from special funds. While General Fund spending has dropped by around 6 percent from 2010–11, this has, in part been offset by increases in special fund spending as the state shifts some programs—from state to local responsibility under what has been called "realignment"—from General Fund support to special fund support. Federal funds spending continues to decline with the expiration of much of the funding made available through the American Recovery and Reinvestment Act. The budget projects General Fund revenues and transfers of \$88.5 billion and expenditures of \$85.9 billion in 2011–12. The resulting \$2.6 billion operating surplus is necessary for the state to address the carry-in deficit and rebuild a reserve balance of \$0.5 billion by June 30, 2012. This reserve is based, in large part, on assumed revenue growth between 2010–11 and 2011–12.

In addition to the expenditure reductions, the budget package also contains a mechanism for further reducing expenditures in 2011–12 if General Fund revenues are estimated to fall short of the amount contained in the *2011–12 Budget Act*. The cuts are in two tiers: first, if revenues are forecast to be \$1 billion below the budget level, and second, if the revenue is forecast to be \$2 billion below. Chapter 41, Statutes of 2011 (AB 121, Committee on Budget), Chapter 43, Statutes of 2011 (AB 114, Committee on Budget), and Chapter 34, Statutes of 2011 (SB 73, Committee on Budget) provide the mechanisms and the upper limits for the additional cuts (also referred to as "trigger cuts"). Following is a table outlining "trigger" reductions:

Trigger Reductions if Revenues Fall Short of Forecasts

General Fund Benefit (In Millions)

Tier 1 Trigger—Revenues Are Forecast to Be \$1 Billion Below Budget Act

Reduce University of California budget	\$100
Reduce California State University budget	100
Reduce funding for developmental services	100
Reduce service hours for In-Home Supportive Services (IHSS) recipients by 20 percent	100
Increase charges to counties for youthful offenders sent to CDCR facilities	72
Reduce community college funding (offset with a \$10 per unit fee increase)	30
Reduce child care funding by 4 percent	23

Reduce CDCR budget	20
Eliminate state grants for local libraries	16
Eliminate vertical prosecution grants	15
Extend Medi-Cal provider cuts and copayments to all managed care plans	15
Eliminate funding for local antifraud efforts in IHSS	10
Subtotal	(\$601)

Tier 2 Trigger—Revenues Are Forecast to Be \$2 Billion Below Budget Act

Reduce school year by seven days	\$1,540
Eliminate Home-to-School Transportation	248
Reduce community colleges budget	72
Subtotal	(\$1,860)
Total	\$2,461

The Department of Finance could reduce spending by less than the amount shown in each category. Legislation includes a specific formula directing the amount of reductions to K–12 schools based on the amount by which revenues fall short of *Budget Act* estimates.

CDCR = California Department of Corrections and Rehabilitation.

The provisions of Chapter 41 require that the Department of Finance (DOF) compare its updated revenue estimate for 2011–12 with Legislative Analyst Office (LAO) estimate (presented in November). The higher of these two estimates will be compared with the forecast contained in the *2011–12 Budget Act*. DOF has the authority to reduce expenditures as laid out in Chapter 41.

On August 4, 2011, the Department of Developmental Services issued a memo to all regional centers providing a summary of the recently enacted Trailer Bill (AB 104, Chapter 37, Statutes of 2011), companion to the 2011-12 State Budget that directly affects regional centers or the developmental services system. This trailer bill language (TBL) became effective July 1, 2011. A copy of that memo is attached.

ANALYSIS/DISCUSSION: Terri Delgadillo, Director, DDS will be providing an overview of the 2011-12 DDS budget, reductions, and implementation of the trailer bill (companion to the budget) language relative to the developmental services system. Based upon the most recent revenue reports, most advocates believe that, at least, the first trigger will be pulled and that the developmental services system will be expected to assume another \$100 million in reduction during the second half of 2011-12. Now appears to be the appropriate time to discussion what message the Council may want to give in the event the trigger is pulled. Advocates have been discussing two

messages, one that the system has given enough and cannot afford to absorb another \$100 million without sustaining significant damage and potential loss of the entitlement to services designed to increase the independence, productivity, inclusion and self-determination of those served; and the other is that if faced with any reduction, what strategies need to be considered (i.e.: infrastructure changes to reduce costs, additional provider rate reductions, further limits on eligibility, increased fees, access to additional federal funds, etc.) None of these ideas are being promoted, but included here to stimulate discussion and development of a Council strategy in the event that the trigger is pulled and reductions are to be made. Since Chapter 41 (AB 121) includes the following language:

(2) Reduce Item 4300-101-0001 of Section 2.00 by not more than \$100,000,000.

it appears as though any further reduction could be from \$0 to \$100 million, thus strategy could range anywhere from no reductions to methods to address up to the maximum allowed by law assuming that no subsequent legislation is passed impacting this issue.

COUNCIL STRATEGIC PLAN OBJECTIVE: Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: Historically the Council has opposed reductions in the budget for the developmental services system as they have, over time, reduced all three areas the majority of funds are used for, eligibility, access to services, and the rate of payment for services.

STAFF RECOMMENDATION(S): Oppose any further reductions in 2011-12 to the developmental services system and other services impacting individuals with developmental disabilities (i.e. in-home supportive services) on the basis that individuals with developmental disabilities, their families, and the service and support system has already contributed significantly to reducing the overall State deficit. If, however, that strategy is not successful, the Council should identify methods for addressing further reductions in the system so as to be prepared to offer suggestions to the Administration.

ATTACHMENT(S): Summary of reductions affecting individuals with developmental disabilities and the service system in the 2011-12 State Budget; DDS memo to regional centers on trailer bill language affecting the centers; DDS instructions regarding the implementation of the annual family fee; and portions of the 2011-12 California Spending Plan issued by the LAO, August 2011.

PREPARED: Carol J. Risley, August 29, 2011



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Summary of LAO Findings and Recommendations on the 2011-12 Budget

What Is This Page About?

Create a summary list by choosing a Policy Area **OR** Department below, and clicking Go.

Questions About a Recommendation?

Is text being cut off at the right margin when you print?

	Program	Budget Issue	LAO Finding Or Recommendation	Last Updated
Go Back	Revenue	Preliminary information on August income tax collections	Provides preliminary information on California's personal and corporate income tax collections for the month of August 2011.	9-02-11
Detailed Narrative				

Despite today's [weak national employment report](#) for the month of August, preliminary reports from California's tax agencies on personal and corporate income tax receipts for the month tell a "good news/bad news" story. On the one hand, the tax data indicates that the California economy is continuing to recover from the recession, albeit very sluggishly. This slow recovery is essentially in line with that projected in the state's most recent economic forecasts, which were released around the time of the May Revision. On the other hand, income taxes in August do not appear to have been enough to cover the portion of the \$4 billion "unallocated revenue increase" (included in the [2011-12 state budget package](#)) attributed to the month in administration forecasts. Sales and use taxes (SUT) and other General Fund revenues—data for which will be available in the coming days—will have to perform above expectations for overall August revenue targets to be met.

The Good News. California's income tax bases are performing essentially as expected in the most recent economic forecasts of our office and the Department of Finance (DOF), both of which were [released in May](#). Based on very preliminary information from the state's tax agencies, net personal income tax (PIT) collections (including Mental Health Fund revenues) for August were about \$100 million (3 percent) above the *2011-12 Budget Act* forecast prepared by the administration. Corporation tax (CT) collections were about \$35 million (40 percent) above the monthly administration forecast in August. (August, it should be noted, is not a major collection month for either income tax.) The data suggest that job and wage growth in California has continued to be sluggish, but slightly positive, as projected.

The Bad News. The bad news is that, in order for the state to hit its overall budgetary targets for 2011-12, PIT, CT, and other tax receipts need to exceed monthly forecasts by \$4 billion over the course of the fiscal year. This is because \$4 billion was added to the budget plan by the Legislature and the Governor as an unallocated revenue increase (meaning it was assumed to be received by the state during this fiscal year, but was not allocated to particular tax sources).

The administration's budget act forecast allocates \$236 million of the \$4 billion unallocated revenue increase to August. As described above, PIT and CT receipts were about \$135 million above forecast. Accordingly, if SUT and all other General Fund revenues perform exactly as forecast for the month, overall General Fund revenues for the month will be about \$100 million below the budget act target. Preliminary agency cash data concerning SUT will be received from the State Board of Equalization (BOE) in the coming days, followed by DOF's monthly Finance Bulletin around mid-September.

In July, General Fund revenues were \$541 million (9 percent) short of the monthly budget act forecast prepared by the administration, due to timing issues and the inability of revenues to keep up with the \$229 million portion of the unallocated revenue increase attributed to July.

Methodology. The PIT and CT data above is based on daily Franchise Tax Board and Employment Development Department *agency cash* information. This data is preliminary and *will* change somewhat in the coming weeks as estimates for the month are finalized and reviewed. Only agency cash data—not "Controller's cash" data—is used for state budgetary forecasting and reporting purposes. Agency cash differs from Controller's cash (which is reported in the Controller's monthly state cash flow statements) based principally on the timing of receipts. The monthly Finance Bulletin from DOF is the authoritative monthly source on General Fund budgetary revenues.

HIGHLIGHTS OF APPROVED STATE BUDGET – 2011 - 2012
SUMMARY OF IMPACT ON INDIVIDUALS AND FAMILIES

<p>INCREASE IN FEDERAL FUNDS BRINGS NEW REQUIREMENTS FOR FAMILIES</p>	<p>The Department of Developmental Services (DDS) is applying for increased federal funds from Medicaid to cover some long term care services. As a result, individuals receiving services from the Regional Center will be expected to provide their health care benefit cards (health insurance card) to the Regional Center so that federally funded services may be billed.</p>
<p>REDUCTION IN REGIONAL CENTER OPERATIONS</p>	<p>Because of the overall reduction in funding to Regional Centers, service coordinators will likely have larger caseloads.</p>
<p>ANNUAL FAMILY PROGRAM FEE</p>	<p>Some families will pay a fee of \$150 or \$200 for their child's participation in regional center services (depending on family income).</p> <p>The criteria for this fee are:</p> <ul style="list-style-type: none"> • The child is under the age of 18 • The child lives at home with parents • The child is not eligible for MediCal • The family income is at or above 400% of the Federal Poverty Level based on family size • The child receives services <u>other than</u> eligibility determination, needs assessment and case management which have no fee. • The child receives services <u>other than</u> respite, day care, and/or camping services. Families incur a fee for these services through the Family Cost Participation Fee. <p>Families with two or more children who receive Regional Center services will pay only one fee.</p> <p>Exceptions to the fee may be made for families with special circumstances.</p>
<p>EDUCATION SERVICES FOR PEOPLE AGED 18 - 22</p>	<p>People aged 18 through 21 who receive and continue to be eligible for special education services and who have not earned a high school diploma, may no longer receive certain Regional Center funded services such as day, vocational, independent living and transportation services. All services of these types will have to be requested from their local school districts. There is language for an exception if the student's needs cannot be met through the school system.</p> <p>Individuals in this age group who are already receiving Regional Center funded services like these will go through an IPP review to determine if their local school system is able to meet their</p>

	<p>needs. They may have to transfer back to their school district for services. Again, an exception can be made for individual needs. Other service types unrelated to education that Regional Center usually funds for children may be provided by the Regional Center for the 18 - 21 age-group as well.</p>
SUPPORTED LIVING SERVICES	<p>There are two changes to Supported Living Services:</p> <ol style="list-style-type: none"> 1. When SLS is provided for two or more people living together, services may be shared for certain tasks done in common such as meal preparation, shopping, laundry, household chores etc. These will be discussed in the IPP process to determine if each person's needs can be met through this shared service approach. 2. If a person needs intensive supports (more than 125% of the state average) an assessment will be conducted by someone other than the supported living provider. This assessment will be used during the IPP meeting to determine the level of service to be provided.
ADULT DAY SERVICES – INDIVIDUAL CHOICE	<p>People have new options available to them for day services.</p> <ol style="list-style-type: none"> 1. Tailored Day Service Option (TDS) – This is designed as an alternative to traditional day programs operating 5 days a week, 6 hours a day. It is intended to offer a more individualized approach to meet the needs of people who want to develop or maintain employment, volunteer activities, and/or post-secondary education. It will result in a cost savings to the state in that this option will be offered for only 20-80 hours per month per person. (People currently receiving services through the Senior and Customized Endeavors options may continue however no new referrals will be made to those options.) 2. Vouchered Community-Based Training Service Option (VCTS) – This is designed for people who choose to hire their own support staff for an individualized day service. A financial management service will be available to people to manage payroll activities. The VCTS option is limited to a maximum of 150 service hours per quarter year. 3. Half/whole day ADS – People may elect to attend an Adult Day Service either a whole day (75% or more of the regular service day) or a half day (less than 75% of the regular service day). This will be agreed upon during the person's IPP meeting. This does not apply to TDS and VCTS described above.
BEHAVIORAL	<p>There are two changes to behavioral services:</p> <ol style="list-style-type: none"> 1. For children receiving behavioral support services, parents will need to confirm that behavioral services have been

SERVICES	<p>provided. The vendor will provide a form that the parent or legal guardian will date and sign.</p> <p>2. For some types of group behavioral intervention services, qualified paraprofessionals may be utilized under the supervision of a professional.</p>
PREVENTION PROGRAM FOR INFANTS AND TODDLERS	<p>Infants and toddlers not eligible for the Early Start or Lanterman Act programs but who have at-risk factors, will be referred to a Family Resource Center (FRC) for Prevention Program services. The functions of the FRC Prevention Program will be information, resources, outreach and referral only.</p> <p>Children currently receiving Prevention Services through the Regional Center will continue doing so until 36 months of age.</p>
TRANSPORTATION ACCESS PLANS FOR ADULTS	<p>Any adult using specialized or vendored transportation services funded by the Regional Center will have a Transportation Access Plan as part of their IPP. This plan will address the services needed by the person to access the most inclusive transportation option that can meet the person's need.</p>
HEALTH CARE SERVICES	<p>New limits on MediCal:</p> <ol style="list-style-type: none"> 1. Cap on the amount MediCal will pay for hearing aids 2. Limit on doctors' visits to seven per year without additional approval 3. \$50 co-pay for emergency room visit 4. \$5 co-pay for doctor, clinic and dental services 5. Hospital stay: \$100/day up to \$200 6. \$3 - \$5 co-pay for prescription drugs 7. People may only change their managed care plan once per year <p>Adult Day Health Care programs will be phased out and people moved to other services</p>
MENTAL HEALTH SERVICES FOR CHILDREN	<p>The requirement to provide mental health services for school age children who require such services will shift from counties to school districts.</p>
IHSS	<p>Medical certification is required to receive In Home Support Services.</p>
SSI	<p>\$15 per month reduction for individuals receiving SSI/SSP</p>

DEPARTMENT OF DEVELOPMENTAL SERVICES

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August 4, 2011

TO: REGIONAL CENTER DIRECTORS AND BOARD PRESIDENTS

SUBJECT: JUNE 2011 TRAILER BILL LANGUAGE AFFECTING REGIONAL CENTERS

The purpose of this correspondence is to transmit a summary of the recently enacted Trailer Bill (AB 104, Chapter 37, Statutes of 2011) that directly affects regional centers or the developmental services system. This trailer bill language (TBL) became effective July 1, 2011. Regional centers should continue to educate their communities regarding these legislative changes. While this correspondence provides a high level summary of the TBL, a complete and thorough review of TBL (see www.leginfo.ca.gov) is imperative for regional centers' statutory compliance. Clarifying information regarding implementation of TBL is included in several areas below.

Health Benefit Cards

TBL Sections 1, 8 and 9: Section 95020 of the Government Code (Gov. Code) and sections 4643 and 4646.4 of Welfare & Institutions Code¹ were amended, requiring that at the time of intake and assessment for Early Start or Lanterman Act services, and at the time of subsequent development, scheduled reviews, or modification of a consumer's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), the consumer, or where appropriate, parents, legal guardian, or conservator must provide copies of any health benefit cards under which the consumer is eligible to receive health benefits, including, but not limited to, private health insurance, a health care service plan, Medi-Cal, Medicare, and TRICARE. If the individual, or, where appropriate, the parents, legal guardians, or conservators, have no such benefits, the regional center may not use that fact to negatively impact the services that the individual may or may not receive from the regional center.

Vendor Electronic Billing (e-billing)

TBL Sections 2 and 7: Section 95020.5 was added to the Gov. Code and section 4641.5 was added, requiring that effective July 1, 2011, regional centers begin transitioning providers and vendors of services purchased through a regional center to electronic billing. "Electronic billing" is defined as the Regional Center e-Billing System web application provided by the Department of Developmental Services (Department).

¹ All citations are to the Welfare and Institutions Code unless otherwise stated.

"Building Partnerships, Supporting Choices"

All providers, vendors and contracted providers of services provided or purchased through a regional center must submit all billings electronically for services provided on or after July 1, 2012, with the exception of the following:

- A provider or vendor whose services are paid for by vouchers, as that term is defined in section 4512 (j).
- A provider or vendor who demonstrates that submitting billings electronically for services presents a substantial financial hardship for the provider.

Implementation: Regional centers are encouraged to develop and share with their community a timeline for, and immediately begin, transitioning vendors to e-billing over the course of the fiscal year.

Transfer Reduced Scope Prevention Program to the Family Resource Centers

TBL Sections 5 and 6: Section 4435 was amended stating that babies identified as being at-risk who were in the prevention program as of June 30, 2011, are to continue in the prevention program until the child reaches 36 months of age, the regional center has determined the child is eligible for Early Start services, the regional center has determined the child is eligible for Lanterman Act services, or June 30, 2012, whichever date is earlier. Effective July 1, 2011, a regional center may not refer any at-risk babies to the prevention program described in section 4435.

Section 4435.1 was added, stating that effective July 1, 2011, the Department shall establish a program for at-risk babies. "At risk babies" means children under 36 months of age who are not eligible for the Early Start or Lanterman Act programs, and whose genetic, medical, developmental, or environmental history is predictive of a substantially greater risk for developmental disability than that for the general population, the presence of which is diagnosed by qualified clinicians. Effective July 1, 2011, when a regional center intake and assessment determination is that a baby is an at-risk baby, the regional center will, with parental consent, refer the baby and family to the family resource center described below, for outreach, information, and referral services.

Effective July 1, 2011, the Department is required to contract with an organization representing one or more family resource centers which receive federal funds to provide outreach, information, and referral services to generic agencies for children under 36 months of age who are not eligible for the Early Start or Lanterman Act programs. The organization with which the Department contracts is to be an organization that supports families of young children with intellectual or developmental disabilities, and those at risk of intellectual or developmental disabilities by ensuring the continuance, expansion, promotion, and quality of local family support services, including coordination, outreach, and referral. The contract must ensure the expeditious delivery of outreach, information, and referral services to at-risk babies, and require the organization to

establish a process with the applicable regional center or centers for referral of the at-risk baby to the regional center when the family resource center suspects that the child may be eligible for Early Start or Lanterman Act services.

Implementation: The Department has contracted with the Family Resource Center Network of California and Support for Families of Children with Disabilities (contractors) to carry out the requirements of section 4435.1. The program is known as the Prevention Resource and Referral Services. The contractors will deliver services through subcontracts with the local Family Resource Centers (FRC). Local FRCs are required to negotiate a Memorandum of Understanding (MOU) with their regional center by September 1, 2011. The MOU will specify the procedures by which the local FRCs shall accept referrals from the regional center and refer children to the regional center who may be exhibiting developmental concerns that necessitate evaluation by the regional center for Early Start or Lanterman Act services. Other MOU components shall include activities to ensure coordination between the FRCs and the regional centers. Regional centers will receive current year's prevention program funds based on their percent to total share of the June, 2011 Prevention Program (Status Code P) caseload. The Department previously notified regional centers not to allocate two percent of their current year Prevention Program funds to the FRCs.

Enhancing Community Integration and Participation—Development of Transportation Access Plans

TBL Section 10: Section 4646.5 was amended to require that the planning process for the IPP also include the development of a transportation access plan for a consumer when all of the following conditions are met:

- The regional center is purchasing private, specialized transportation services or services from a residential, day, or other provider, excluding vouchered service providers, to transport the consumer to and from day or work services;
- The planning team has determined that a consumer's community integration and participation could be safe and enhanced through the use of public transportation services; and,
- The planning team has determined that generic transportation services are available and accessible.

To maximize independence and community integration and participation, the transportation access plan must identify the services and supports necessary to assist the consumer in accessing public transportation and comply with section 4648.35. These services and supports may include, but are not limited to, mobility training services and the use of transportation aides. Regional centers are encouraged to coordinate with local public transportation agencies.

Implementation: Where applicable, at the time of development, review, or modification of the IPP, regional centers must develop the required transportation access plan. The Department will review the regional centers' implementation of this provision through the Department's IPP monitoring protocol, as part of the Home and Community Based Services Waiver monitoring or other Department monitoring activities.

Maximize Utilization of Generic Resources—Education Services

TBL Section 13: Section 4648.55 was added, prohibiting a regional center from purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services for a consumer who is 18 to 22 years of age, if the consumer is eligible for special education and related education services and has not received a diploma or certificate of completion, unless the planning team determines that the consumer's needs cannot be met in the educational system or grants an exemption pursuant to section 4648(d). The exemption language in section 4648(d) states: "An exemption to the provisions of this section may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a). An exemption shall be granted through the IPP process and shall be based on a determination that the generic service is not appropriate to meet the consumer's need. The consumer shall be informed of the exemption and the process for obtaining an exemption."

If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center is to assist the consumer in accessing those services. To ensure that consumers receive appropriate educational services and an effective transition from services provided by educational agencies to services provided by regional centers, the regional center service coordinator, at the request of the consumer or, where appropriate, the consumer's parent, legal guardian, or conservator, may attend the individualized education program planning team meeting.

For consumers who are 18 to 22 years of age, who have left the public school system, and who are receiving regional center purchased services identified above on or before July 1, 2011, a determination is to be made through the IPP as to whether the return to the educational system can be achieved while meeting the consumer's needs. If the planning team determines that the consumer's needs cannot be met in the educational system, the regional center may continue to purchase the services identified above. If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center must assist the consumer in accessing those services.

For consumers who are 18 to 22 years of age, who have left school prior to July 1, 2011, but who are not receiving any of the regional center purchased services identified above the regional center is to use generic education services to meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs if those needs are subsequently identified in the IPP unless the consumer is eligible for an exemption, based on the criteria below. If the planning team determines that generic services can meet the consumer's day, vocational education, work services, independent living, or mobility training and related transportation needs, the regional center is to assist the consumer in accessing those services.

Implementation: The statutory provisions apply to all consumers 18-22 years of age, who are eligible for special education and related education services and have not received a diploma or certificate of completion, even if the regional center is currently purchasing day program, vocational education, work services, independent living program, or mobility training and related transportation services. For consumers 18 to 22 years of age, at the time of development, review, or modification of the IPP, each planning team must determine if generic educational services continue to or can meet a consumer's needs, or if extraordinary circumstances exist, and decide whether or not an exemption on that basis may be granted. Also, when the planning team determines, through the IPP process, that the generic (education) services are not appropriate to meet the consumer's needs, an exemption should be granted.

The Department will review the regional centers' implementation of this provision through the Department's IPP monitoring protocol, as part of the Home and Community Based Services Waiver monitoring or other Department monitoring activities.

Maintaining the Consumer's Home of Choice—Mixed Payment Rates in Residential Facilities with Alternative Residential Model Rates

TBL Section 14: Section 4681.7 was added, stating that effective July 1, 2011, in order to maintain a consumer's preferred living arrangement and adjust the residential services and supports in accordance with changing service needs identified in the IPP, a regional center may enter into a signed written agreement with a residential service provider for a consumer's supervision, training, and support needs to be provided at a lower level of payment than the facility's designated Alternative Residential Model (ARM) service level. The regional center signed written agreement with the provider must ensure all of the following:

- Services provided to other facility residents comply with the applicable service requirements for the facility's approved service level pursuant to section 4681.1 and Title 17 of the California Code of Regulations;
- Protection of the health and safety of each facility resident;

- Identification of the revised services and supports to be provided to the consumer within the ARM rate structure as part of the establishment or revision of an IPP; and,
- Identification of the rate.

If the service needs of a consumer referred to above change such that the consumer requires a higher level of supervision, training, and support, the regional center must adjust the consumer's service level and rate to meet the consumer's changing needs.

A regional center is authorized to enter into a signed written agreement with a residential service provider for a consumer's needed services at a lower level of payment and staffing without adjusting the facility's approved service level. A signed written agreement for a lower level of payment and staffing may only be entered into when a regional center, a consumer, and the facility agree that the facility can safely provide the service and supports needed by the consumer, as identified in the IPP, at the lower level of payment with the payment options within the ARM rate structure and with associated ARM service level requirements.

Implementation: Compliance with this section of TBL will be monitored through the Department's fiscal audits of regional centers and vendors, as appropriate.

Maximizing Resources for Behavioral Services

TBL Section 15: Section 4686.3 was added, requiring the Department to adopt emergency regulations to address the use of paraprofessionals in group practice provider behavioral intervention services and establish a rate. The regulations must establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the paraprofessional to provide behavioral intervention services.

Implementation: Department staff is currently working on the needed regulations to implement the statutory provisions.

TBL Section 16: Section 4686.31 was added requiring any vendor who provides services as specified below to submit verification to the regional center for services provided to consumers who are under 18 years of age and residing in the family home. The Department must develop and post a standard form for vendors to complete and provide to the family for signature. The form must include, but not be limited to, the name and title of the vendor, the vendor identification number, the name of the consumer, the unique client identifier, the location of the service, the date and start and end times of the service, and a description of the service provided. The form must also

include instructions for the parents or legally appointed guardians to contact the regional center service coordinator immediately if they are unable to sign the form.

The vendor must provide the parents or legally appointed guardians of a minor consumer with the Department form to sign. The form must be signed and dated by the parents or legally appointed guardians of a minor consumer and be submitted to the vendor providing services within 30 days of the month in which the services were provided. The vendor must submit the completed forms to the regional center together with the vendor's invoices for the services provided. If the parents or legally appointed guardians of a minor consumer do not submit a form to the vendor, the vendor must notify the regional center.

This requirement only applies to the following types of services: Behavior Analyst, Associate Behavior Analyst, Behavior Management Assistant, Behavior Technician (Paraprofessional), Behavior Management Consultant, Counseling Services, Tutor, Crisis Team-Evaluation and Behavioral Intervention, Tutor Services-Group, Client/Parent Support Behavior Intervention Training, and Parent-Coordinated Home Based Behavior Intervention Program for Autistic Children.

The failure of the parents or legally appointed guardians of a minor consumer to submit a verification of services to the vendor shall not be a basis for terminating or changing behavioral services to the minor consumer. Any changes to behavioral services shall be made by the consumer's planning team pursuant to section 4512.

Implementation: The Department notified regional centers of these new requirements in an email dated July 11, 2011. The required form is available on the Department's homepage at: <http://www.dds.ca.gov/Forms/docs/DS5862.pdf> in English, Spanish, Tagalog, Russian, Chinese, and Vietnamese. In a case where the vendor notifies the regional center the parent(s) or legally appointed guardian will not sign the form, the regional center should follow-up with the parent/legally appointed guardian to determine if services were delivered prior to making payment.

Also, as noted previously, release of the emergency regulations implementing the new classification of behavior technician (paraprofessional) is pending.

Individual Choice Day Services

TBL Sections 17 and 18: Sections 4688.1 and 4688.2 were amended prohibiting regional centers, effective July 1, 2011, from referring any additional consumers to alternative senior programs and alternative customized programs respectively.

Implementation: While new service referrals are prohibited, consumers receiving services from these two program types, prior to July 1, may continue to do so.

TBL Section 19: Section 4688.21 was added, indicating that the Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and volunteer activities; direct their services; pursue postsecondary education; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.

Tailored Day Service

A tailored day service must do both of the following:

- Include an individualized service design, as determined through the IPP and approved by the regional center, that maximizes the consumer's individualized choices and needs. This service design may include, but may not be limited to, fewer days or hours than in the program's approved day program, look-alike day program, supported employment program, or work activity program design; and flexibility in the duration and intensity of services to meet the consumer's individualized needs; and,
- Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer's ability to lead an integrated and inclusive life.

The type and amount of tailored day service must be determined through the IPP process, and the IPP must contain, but not be limited to:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and,
- The type and amount of services and staffing needed to meet the consumer's individualized choices and needs, and unique health and safety and other needs.

The staffing requirements set forth in section 55756 of Title 17 of the California Code of Regulations and section 4851 (r) do not apply to a tailored day service. For currently vendored programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design that includes, but is not limited to:

- A daily or hourly rate and maximum units of service design that does not exceed the equivalent cost of four days per week of the vendor's current rate, if the vendor has a daily day program rate; and,
- A rate and maximum units of service design that does not exceed the equivalent cost of four-fifths of the hours of the vendor's current rate, if the vendor has an hourly rate.

The regional center must ensure that the vendor is capable of complying with, and will comply with, the consumer's IPP, individual choice, and health and safety needs.

For new programs wishing to offer a tailored day service option, the regional center shall vendor a tailored day service option upon negotiating a rate and maximum units of service design. The rate paid to the new vendor shall not exceed four-fifths of the temporary payment rate or the median rate, whichever is applicable.

Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers must provide information about tailored day service to eligible adult consumers. A consumer may request information about tailored day services from the regional center at any time and may request an IPP meeting to secure those services.

***Implementation:** Entities/persons not currently vendored as day program, look-alike day program, supported employment program or a work activity program seeking vendorization to provide tailored day services, must be vendored under an existing, appropriate service code for day program, look-alike day program, supported employment program or a work activity program. When purchasing tailored day services from a day program, look-alike day program, supported employment program, or work activity program, the regional center shall sub code the expenditure accordingly:*

- *TDS – Tailored Day Service “Big Claim” Program Code 00*
- *TDSC – Tailored Day Service CPP Program Code 01 (This sub code should be used by the regional center during the fiscal year in which a consumer moves from a developmental center to the community.)*

Voucher – Community-based Training Service

A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education. Implementation of vouchered community-based training service is contingent upon the approval of the federal Centers for Medicare and Medicaid Services (CMS). Vouchered community-based training service must be

provided in natural environments in the community, separate from the consumer's residence. A consumer, parent, or conservator vendored as a vouchered community-based training service must utilize the services of a financial management services (FMS) entity, and the regional center must provide information about available FMS and assist the consumer in selecting a FMS vendor to act as co-employer. A parent or conservator is prohibited from being the direct support worker employed by the vouchered community-based training service vendor.

If the direct support worker is required to transport the consumer, the vouchered community-based training service vendor must verify that the direct support worker can transport the consumer safely and has a valid California driver's license and proof of insurance. The rate for vouchered community-based training service shall not exceed thirteen dollars and forty-seven cents (\$13.47) per hour. The rate includes employer-related taxes and all transportation needed to implement the service, except a consumer vendored as a vouchered community-based training service may also be eligible for a regional center-funded bus pass, if appropriate and needed. The rate does not include the cost of the FMS.

Vouchered community-based training services are limited to a maximum of 150 hours per quarter. The services to be provided and the service hours must be documented in the consumer's IPP. A direct support worker of vouchered community-based training service must be an adult who possesses the skill, training, and experience necessary to provide services in accordance with the IPP. Effective July 1, 2011, and prior to the time of development, review, or modification of a consumer's IPP, regional centers must provide information about vouchered community-based training service to eligible adult consumers. A consumer may request information about vouchered community-based training services from the regional center at any time and may request an IPP meeting to secure those services. The type and amount of vouchered community-based training service must be determined through the IPP process. And the IPP must contain, but not be limited to:

- A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met; and,
- The type and amount of services and staffing needed to meet the consumer's individualized choices and unique health and safety and other needs.

Implementation: This vouchered option is in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program. As specified in statute the implementation of vouchered community-based training service is contingent upon the approval of CMS. As such, the Department's submitted Home and Community-Based Services Waiver renewal application includes this service option with a requested effective date of October 1, 2011. Additionally, as

the statute requires use of a FMS, implementing regulations defining and establishing the use of and rates for such services will be released shortly. When implemented upon receipt of CMS approval, the vouchered community-based day training service will also be available to consumers who are not Waiver beneficiaries.

TBL Section 21: Section 4690.6 was added, requiring activity centers, adult development centers, behavior management programs, and other look-alike day programs with a daily rate to bill regional centers for services provided to consumers in terms of half days of service and full days of service. "Full day of service" means a day in which the consumer's attendance is at least 65 percent of the declared and approved program day. "Half day of service" means any day in which the consumer's attendance does not meet the criteria for billing for a full day of service. A regional center may change the length of the declared and approved program day for a specific consumer to meet the needs of that consumer, upon the recommendation of the planning team. The regional center must set forth in the IPP the length of the consumer's program day and the reasons for the change in the length of the declared and approved program day. The definitions above do not apply to vendors of tailored day program service.

***Implementation:** Regional centers should ensure providers are aware of this provision and maintain appropriate documentation regarding individual consumer attendance. Such documentation should be reviewed during regional center and Department vendor audits. The Department will not be establishing half-day rates; the statute does not change the rate. The statute requires the vendor to bill for one-half of their current rate when a consumer attends the program for 65% or less of the program day.*

Supported Living Services: Maximizing Resources

TBL Section 20: Section 4689 was amended stating that for consumers receiving supported living services (SLS) who share a household with one or more adults receiving SLS, efficiencies in the provision of service may be achieved if some tasks can be shared, meaning the tasks can be provided at the same time while still ensuring that each person's individual needs are met. These tasks may only be shared to the extent they are permitted under the Labor Code and related regulations, including, but not limited to, Industrial Welfare Commission Minimum Wage Order No. 15. The planning team, at the time of development, review, or modification of a consumer's IPP, for housemates currently in a supported living arrangement or planning to move together into a supported living arrangement, or for consumers who live with a housemate not receiving SLS who is responsible for the task, shall consider, with input from the service provider, whether any tasks, such as meal preparation and cleanup, menu planning, laundry, shopping, general household tasks, or errands can appropriately be shared. If tasks can be appropriately shared, the regional center shall purchase the prorated share of the activity. Upon a determination of a reduction in

services the regional center must inform the consumer of the reason for the determination, and provide a written notice of fair hearing rights pursuant to section 4701.

To ensure that consumers in supported living arrangements receive the appropriate amount and type of supports, an independent assessment is required for consumers currently receiving, or initially entering, supported living who have SLS costs, or have an initial recommendation for service costs, that exceed 125 percent of the annual statewide average cost of SLS, as published by the Department commencing June 30, 2011. Commencing July 1, 2011, regional centers must identify consumers currently receiving SLS, whose annual SLS costs exceed 125 percent of the annual statewide average cost of SLS. The regional center must also identify consumers who have an initial recommendation for SLS costs that exceed 125 percent of the annual statewide average cost of SLS. For these consumers the regional center must arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. The independent assessment must be completed by an impartial entity or individual other than the SLS agency providing, or planning to provide, the service and shall be used during IPP meetings to assist the team to determine whether the services provided or recommended are necessary and sufficient and that the most cost-effective methods of service are utilized. Decisions about supported living shall be made by the IPP team.

The independent assessment process must adhere to all of the following:

- SLS providers must conduct comprehensive assessments for the purpose of getting to know the consumer they will be supporting and developing a support plan congruent with the choices and needs of the individual and consistent with the principles of supported living set forth in the Lanterman Act and Title 17. The independent assessment is not intended to take the place of or repeat the service provider's comprehensive assessment. The purpose of the independent assessment is to provide an additional look at whether the SLS being provided, or being proposed for a person initially entering supported living, are necessary, sufficient, or cost-effective to meet the person's choices and needs, as determined by the comprehensive assessment and the planning team. The independent needs assessment may include, but is not limited to, use of natural and generic support, technology that provides support otherwise necessary through direct staffing hours, shared housing, support alternatives, learning methods, lifting and transferring, bathroom, grooming, meals, communication, transportation, mobility, emergency procedures, medication management, household responsibilities, personal needs, interpersonal relationships, and behavioral, medical, and overnight supports.

- A consumer shall not be excluded from SLS based on an independent assessment.
- The entity or individual conducting independent assessments shall not be an employee of a regional center or the consumer's service provider. Current supported living providers may conduct independent assessments for consumers being supported, or about to be supported, by other providers. However, a provider who conducts an independent assessment may not provide direct services to a consumer it has assessed for a period of one year. Each regional center must publicly identify the entities and individuals it will use to conduct independent assessments. Regional centers must ensure there are sufficient independent assessors so that assessments can be provided when required without undue delay.
- Initial entry into supported living may not be delayed for more than 30 days following the determination to request an independent assessment due to the need for an independent assessment. If the independent assessment cannot be conducted within that time period, the individual may move into supported living with the amount of supports recommended by the service provider's comprehensive assessment and an additional IPP to consider the results of the independent assessment must be conducted when that assessment becomes available, if necessary. For individuals currently in a supported living arrangement, supports must continue at the same level while the independent assessment is being conducted.
- Independent assessors shall meet all of the following qualifications:
 - Have a demonstrated understanding of the foundation of supported living as a service that assists an individual to live in his or her own home with supports as needed to be part of their community and of the principles and operational requirements of supported living set forth in the Lanterman Act and Title 17;
 - Have a demonstrated understanding of the IPP process and the legal rights of people with developmental disabilities in California; and,
 - Have experience with the provision of SLS in California.
- The Department must establish a rate of payment for an independent assessment.
- The planning team must consider the independent assessment along with the provider's assessment, if available, and any other relevant information in determining whether there should be any adjustment to the amount or type of supports currently being received by individuals in supported living arrangements or recommended for individuals initially entering supported living arrangements. Any decisions to reduce supports shall not be applied retroactively.

- A consumer shall be reassessed every three years in conjunction with the consumer's IPP review to determine whether all services are necessary and sufficient and to ensure that the most cost-effective methods of service are being utilized.
- Individuals who are moving to a supported living arrangement or have moved to a supported living arrangement from a developmental center or state-operated community facility are not required to have an additional assessment during the first 12 months following placement.
- Upon a determination of a reduction in service, the regional center must inform the consumer of the reason for the determination, and provide a written notice of fair hearing rights pursuant to section 4701.
- Nothing precludes the completion of an independent assessment for other purposes.

Implementation: The purpose of the independent assessment is to provide an additional look at whether the SLS being provided to, or proposed for, the consumer are necessary, sufficient, or cost-effective to meet the consumer's choices and needs. Commencing July 1, 2011, regional centers must identify consumers currently receiving SLS, whose annual SLS costs exceed 125 percent of the annual statewide average cost of SLS. The regional center must also identify consumers who have an initial recommendation for SLS costs that exceed 125 percent of the annual statewide average cost of SLS. For these consumers the regional center must arrange for an independent assessment to be completed prior to the next scheduled IPP for consumers currently in a supported living arrangement and within 30 days of identification of consumers with an initial recommendation for services. As required by law, the Department has published on its homepage the annual statewide average cost of SLS, and 125 percent of the annual statewide average cost of SLS. Commencing July 1, 2011, the annual average cost of SLS is \$44,196 and 125 percent of the average annual cost of SLS is \$55,245.

Regional centers shall use only one of the following service codes when purchasing an independent assessment: 1) Supported Living Services, Service Code 896, if the assessor is a current SLS vendor, or 2) Independent Living Specialist, Service Code Independent Living Specialist - Service Code 635. Use of any other service code (Ex. 056) previously used for independent assessments must be discontinued.

When purchasing the independent assessment under either of these service codes, the purchase should additionally be sub coded as:

- *INAS – Independent Assessment “Big Claim” Program Code 00*

The rate for an independent assessment under both service code 896 and 635 can not exceed \$50.00 an hour nor \$1,000 in total.

Annual Family Program Fee

TBL Section 22: Section 4785 was added, stating that effective July 1, 2011, regional centers must assess an annual family program fee, as described below, from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

- The child has a developmental disability or is eligible for Early Start services;
- The child is less than 18 years of age;
- The child lives with his or her parent;
- The child or family receives services beyond eligibility determination, needs assessment, and service coordination; and,
- The child does not receive services through the Medi-Cal program.

An annual family program fee shall not be assessed or collected if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program. The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the IPP or IFSP, but no later than June 30, 2012, and annually thereafter. Application of the annual family program fee to children zero through two years of age, is contingent upon necessary approval by the United States Department of Education.

The annual family program fee for parents described above shall be two hundred dollars (\$200) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under Early Start. Parents who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars (\$150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for Early Start.

At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center must provide to parents described above a form and an envelope for the mailing of the annual family program fee to the Department. The form, which must include the name

of the children in the family currently being served by a regional center and their unique client identifiers, must be sent, with the family's annual program fee, to the Department. The Department will notify each regional center at least quarterly of the annual family program fees collected.

The regional center must, within 30 days after notification from the Department, provide a written notification to the parents from whom the Department has not received the annual family program fees. Regional centers must notify the Department if a family receiving notification has failed to pay its annual family program fees based on the subsequent notice. For these families, the Department will pursue collection pursuant to the Accounts Receivable Management Act (Chapter 4.3 (commencing with section 16580) of Part 2 of Division 4 of Title 2 of the Gov. Code).

A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

- That the exemption is necessary to maintain the child in the family home;
- The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child;
- or,
- The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. Catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

Services may not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee. "Parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age. Parents described above are jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

"Total adjusted gross family income" means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents' return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent. The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

This new law sunsets on June 30, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before June 30, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

Implementation: The Department will be sending out implementation information under separate cover. The Department will provide regional centers with the standard forms to be provided to families, and related instructions; information on the federal poverty level applicable for 2011; and, the interim process for exchange of information between regional centers and the Department.

4.25 Percent Payment Reduction

TBL Section 24: Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 16 of Chapter 9 of the Statutes of 2011, was amended providing that to implement changes in the level of funding for regional center purchase of services, regional centers must reduce payments for services and supports provided pursuant to Title 14 (commencing with section 95000) of the Gov. Code and Division 4.1 (commencing with section 4400) and Division 4.5 (commencing with section 4500). From February 1, 2009, to June 30, 2010, regional centers were required to reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, and from July 1, 2010, to June 30, 2012, by 4.25 percent, unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the Department has granted prior written approval.

Regional centers shall not reduce payments for:

- Supported employment services with rates set by section 4860;
- Services with "usual and customary" rates established pursuant to Title 17 section 57210, except as provided below; and,
- Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

The exemption provided for above for services with a usual and customary rate shall not apply to payments for any of the following services:

- Crisis and behavioral services provided by a nationally certified or state-licensed professional, consistent with the professional's scope of practice, as set forth in the Business and Professions Code.
- Services of group practices providing behavioral intervention.
- Parent-coordinator home-based behavioral intervention for children with autism.
- Individual or family training.

Regional Center Directors and Board Presidents
August 4, 2011
Page eighteen

- Registered nurse services.
- Therapy services, including physical, speech, occupational, recreational, and music therapy.
- Audiology services.
- Independent living specialist services.
- Translator and interpreter services.
- Mobility training, socialization training, or community integration training services.
- Community activities support, program support, or parenting support services.
- Personal assistance services.
- Tutoring services.
- Creative arts services.
- Early start specialized therapeutic services.

Implementation: If the regional center has accepted a usual and customary rate as the rate of payment for any of the providers of services reflected in the list directly above, the regional center, effective July 1, 2011, must apply the 4.25 percent payment reduction.

TBL Section 23: Section 7502.5 was amended specifying that the total number of developmental center residents in the secure treatment facility at Porterville Developmental Center (PDC), including those residents receiving services in the PDC transition treatment program, shall not exceed 230. The Department shall not admit any persons into the secure treatment facility at PDC until the population of the secure treatment facility is less than 230 persons. To maximize federal financial participation, the Department shall not admit any more than 104 people who are ineligible to participate in programs certified for federal financial participation into the secure treatment facility at PDC.

If you have any questions regarding this correspondence, please contact Brian Winfield, at (916) 654-1569.

Sincerely,

ORIGINAL SIGNED BY BRIAN WINFIELD FOR

RITA WALKER
Deputy Director
Community Operations Division

cc: Robert Baldo, ARCA
Mark Hutchinson, DDS

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 340, MS 3-24
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-2716



August 22, 2011

TO: REGIONAL CENTER EXECUTIVE DIRECTORS
REGIONAL CENTER ADMINISTRATORS

SUBJECT: ANNUAL FAMILY PROGRAM FEE IMPLEMENTATION

This program advisory transmits to regional centers the implementation requirements for the Annual Family Program Fee, which became effective July 1, 2011. The Department is working with regional centers to establish an integrated tracking solution for the exchange of information associated with this program.

In the interim, regional centers should implement the process and maintain information locally. Department staff will transmit an excel file monthly to each regional center displaying fees collected during the month. Forms necessary for the program implementation will be available in English and Spanish on the Department website www.dds.ca.gov. Department staff will provide Spanish versions as soon as they are available.

If you have any questions regarding this new program, please contact Dean Shellenberger at (916) 654-3355.

Sincerely,

Original signed by

KARYN MEYRELES
Deputy Director
Administration Division

Enclosures

cc: Robert Baldo, Executive Director, ARCA
Rita Walker, Deputy Director, DDS
Julia Mullen, Deputy Director, DDS
Beverly Humphrey, Deputy Director, DDS

"Building Partnerships, Supporting Choices"

Annual Family Program Fee

Effective July 1, 2011

**Department of Developmental Services
Client Financial Services
1600 9th Street, Sacramento, CA 95814
Dean Shellenberger – 916-654-3355**

Annual Family Program Fee Procedures

I. Overview

This document provides policies and procedures for the Annual Family Program Fee (AFPF) to be assessed to families of children between the ages of 0-17 receiving qualifying services through a regional center. This program became effective July 1, 2011 as required by Welfare & Institutions Code (WIC) Section 4785. This code reads in part:

(a) (1) Effective July 1, 2011, a regional center shall assess an annual family program fee, as described in subdivision (b), from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is less than 18 years of age.

(C) The child lives with his or her parent.

(D) The child or family receives services beyond eligibility determination, needs assessment, and service coordination.

(E) The child does not receive services through the Medi-Cal program.

(2) An AFPF fee shall not be assessed or collected pursuant to this section if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program.

Additional language within this section requires that a single AFPF be assessed per family, regardless of the number of children in the family with developmental disabilities or who are eligible for service under the California Early Intervention Service Act.

A copy of the full text of this statute (appendix A) and a chart of key elements of the fee assessment process (appendix B) is attached.

Services shall not be delayed or denied for a consumer or child based upon the lack of payment of the AFPF.

II. Required Program Components for Regional Centers

A. Regional center shall, at the time of intake or at the time of development, scheduled review, or modification of a consumer's Individual Program Plan (IPP) or Individualized Family Services Plan (IFSP), but no later than June 30, 2012, initially assess the \$200 AFPP when all of the criteria in WIC Section 4785(a)(1)(A)-(E) is met. Regional center shall provide parents a remittance form (appendix C, DDS form DS6010) and an envelope for the mailing of the \$200 AFPP to the Department of Developmental Services (Department or DDS). The remittance form will be available for downloading from the DDS website by the regional centers. The form is designed to fit in a standard business size window envelope to be provided to the family. The envelope should have a blank return address for the family to complete before mailing their AFPP to the Department. The regional center must fill in the shaded areas of the form and include the names of the children in the family currently being served by a regional center and their unique client identifiers (UCI). This is a two sided form and must be printed duplex.

B. To comply with requirements contained in WIC Section 4785 (e), which provides for collection by DDS after regional center has exhausted its efforts, regional centers shall complete the AFPP registration form (appendix D, DDS form DS6009) with parents at the time of the consumer's IPP or IFSP.

C. Upon request from the parents, regional centers shall review, and when applicable, adjust the family's fee assessment if it is demonstrated that the adjusted gross family income is less than 800 percent of the federal poverty level (FPL). Families shall provide the regional center with records to show their total adjusted gross family income as defined in WIC Section 4785 (j) (1). See appendix E for the 2011 FPLs that must be used to determine the fee. If the parents' income is determined to be below 800 percent of the current year FPL, the regional center shall adjust the annual family fee to \$150.00. If the parents' adjusted gross family income is below 400 percent of the current year FPL, the family shall not be assessed the AFPP. In accordance with Section 4785 (j) (1) & (2) the regional center's review of the parent's income information shall consider the following:

- The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that the income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the AFPP.

- Total adjusted gross family income means income acquired, earned, or received by parents as payment for labor or services, support, gift or inheritance, or parents' return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent. This is accomplished by including 50 percent of the stepparents' adjusted gross income in the calculation of the natural parents' incomes.
- "Parent(s)", for the purpose of assessment of a fee, means the parents, whether natural, adoptive, or both, of a child with developmental disability under 18 years of age.

The regional center shall track and record each fee assessment and adjustment made pursuant to this section for the purpose of reporting to the Department.

In any instance in which the family disagrees with the fee amount assessed by the regional center, appropriate notification must be given pursuant to Government Code Section 95007 or WIC Section 4700 et seq. Regional center shall suspend fee assessment efforts if a fair hearing is requested by parents. Pending outcome of the hearing, fee assessment may be resumed. Regional centers shall provide the Department with notification when a parent has requested a fair hearing after the account has been referred to DDS for collection. The regional center shall also provide the Department with the result of the hearing once the outcome is known.

D. Under WIC Section 4785 subdivision (f), the regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

- That the exemption is necessary to maintain the child in the family home.
- The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.
- The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

In any instance in which the regional center denies a family's request for an exemption, appropriate notification must be given pursuant to Government Code Section 95007 or WIC Section 4700 et. seq. Regional center shall suspend fee assessment efforts if a fair hearing is requested by parents. Pending outcome of the hearing, fee assessment may be resumed. Regional center shall provide the Department with notification if a parent has requested a fair hearing after the account has been referred to DDS for collection. The regional center shall also provide the Department with the result of the hearing once the outcome is known.

The regional center shall track and record each exemption granted or denied pursuant to this section for the purpose of reporting to the Department.

E. The Department shall report to each regional center monthly the AFPP payments, by family, that have been received by the department. The regional center shall, within 30 days after receipt of the Department's payment report:

- Identify those parents whose assessment date is greater than 30 days from the date of the report and determine if the AFPP has been collected.
- Provide a second written notification (appendix G, DS6011) to the parents from whom payment has not been received and to whom a second notice has not already been sent. This is a two-sided form and must be printed in duplex. The date of this second written notice should be recorded for purpose of collection.
- Identify those parents whose second written notice date is greater than 30 days from the date of the report for notification to DDS.

Regional centers shall notify the Department of any family fee account that remains unpaid no later than 60 days from the date of the regional center's second written notification to the parents. Notification to the Department of any unpaid account shall include a copy of the completed AFPP Registration form (appendix D, DS6009). The Registration form will indicate the fee amount that is being referred to DDS for collection.

F. If, after the account has been referred to DDS, a parent files for a fair hearing or the regional center reduces the amount of the original referral to \$150 or \$0, the regional center will promptly notify DDS. Notification is to be a copy of the original AFPP registration form that clearly identifies either a change in the amount of the fee as revised by the regional center, or notice that the family has filed for a Fair Hearing and collection is to be suspended pending the outcome of the hearing. If collection is suspended due to the filing for a fair hearing, the regional center shall also provide the Department with the result of the hearing once the outcome is known.

G. Annually, on the anniversary of initial fee assessment, the regional center shall re-determine parents' eligibility for participation in the AFPP, assess the appropriate fee based on family size and income for the current year, and provide the family with a remittance form indicating the new fee and an envelope.

SUMMARY

REGIONAL CENTER RESPONSIBILITIES

- Regional centers shall respond to questions or disputes from families regarding fee eligibility and assessment.
- The AFPF shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the IPP or IFSP, but no later than June 30, 2012, and annually thereafter.
- Regional centers shall assess an AFPF in the amount of \$200 to parents of a child to whom the eligibility criteria apply. The fee amount can be reduced to \$150 when the parents demonstrate an adjusted gross income of less than 800% of the FPL based on their family size; or reduced to \$0 when the parents demonstrate an adjusted gross income of less than 400% FPL.
- Regional centers shall provide a remittance form (DS6010) and a standard business size window envelope with a blank return address for the family to complete when mailing their AFPF to the Department. The DS6010 form can be completed on line and then printed, or can be printed and then completed by hand. In either case, the form must be printed duplex (two sided) so that all of the information that is needed by DDS is included on the portion of the remittance form that is returned by the family with their payment.
- Regional centers shall provide a written notification (DS6011) to parents from whom payment has not been received. Regional centers shall notify the Department if a family receiving notification has failed to pay its AFPF based upon the subsequent (second) notice. The DS6011 form can also be completed on line, or printed and then completed. This form also must be printed duplex (two sided).
- Regional centers may grant an exemption to the assessment of an AFPF if the parents demonstrate a hardship as described in WIC Section 4785.
- Regional centers will promptly advise DDS when, after referring a family to DDS for collection, the family files for a fair hearing or the regional center adjusts the fee amount referred for collection. The regional center shall also provide the Department with the result of the hearing once the outcome is known.

- Regional centers services shall not be delayed or denied for a consumer or child based upon the last of payment of the AFPF.
- Regional centers shall track AFPF assessments, adjustments, and exemptions granted or denied.

DEPARTMENT OF DEVELOPMENTAL SERVICES RESPONSIBILITIES

- The Department shall provide the regional center with the payment form (DS6010), a second notice payment form (DS6011), and a program registration form (DS6009) in English and Spanish that the regional center can download from the DDS website for use in administering this program.
- The Department shall notify each regional center on a monthly basis of the AFPF collected.
- The Department will provide an annual update of the Federal Poverty Level when it becomes available, but not later than April 1st.
- Upon notification from the regional center, the Department shall pursue collection of the AFPF if the family has not paid after the second regional center notice.

Appendix A

**CALIFORNIA CODES
WELFARE AND INSTITUTIONS CODE
SECTION 4785
CHAPTER 37
STATUTE OF 2011**

4785. (a) (1) Effective July 1, 2011, a regional center shall assess an annual family program fee, as described in subdivision (b), from parents whose adjusted gross family income is at or above 400 percent of the federal poverty level based upon family size and who have a child to whom all of the following apply:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code).

(B) The child is less than 18 years of age.

(C) The child lives with his or her parent.

(D) The child or family receives services beyond eligibility determination, needs assessment, and service coordination.

(E) The child does not receive services through the Medi-Cal program.

(2) An annual family program fee shall not be assessed or collected pursuant to this section if the child receives only respite, day care, or camping services from the regional center, and a cost for participation is assessed to the parents under the Family Cost Participation Program.

(3) The annual family program fee shall be initially assessed by a regional center at the time of the development, scheduled review, or modification of the individual program plan (IPP) pursuant to Sections 4646 and 4646.5, or the individualized family services plan (IFSP) pursuant to Section 95020 of the Government Code, but no later than June 30, 2012, and annually thereafter.

(4) Application of this section to children zero through two years of age, inclusive, shall be contingent upon necessary approval by the United States Department of Education.

(b) (1) The annual family program fee for parents described in paragraph (1) of subdivision (a) shall be two hundred dollars (\$200) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(2) Notwithstanding paragraph (1), parents described in paragraph (1) of subdivision (a) who demonstrate to the regional center that their adjusted gross family income is less than 800 percent of the federal poverty level shall be required to pay an annual family program fee of one hundred fifty dollars (\$150) per family, regardless of the number of children in the family with developmental disabilities or who are eligible for services under the California Early Intervention Services Act.

(c) At the time of intake or at the time of development, scheduled review, or modification of a consumer's IPP or IFSP, but no later than June 30, 2012, the regional center shall provide to parents described in paragraph (1) of subdivision (a) a form and an envelope for the mailing of the annual family program fee to the department. The form, which shall include the name of the children in the family currently being served by a regional center and their unique client identifiers, shall be sent, with the family's annual program fee, to the department.

(d) The department shall notify each regional center at least quarterly of the annual family program fees collected.

(e) The regional center shall, within 30 days after notification from the department pursuant to subdivision (d), provide a written notification to the parents from whom the department has not received the annual family program fees. Regional centers shall notify the department if a family receiving notification pursuant to this section has failed to pay its annual family program fees based on the subsequent notice pursuant to subdivision (d). For these families, the department shall pursue collection pursuant to the Accounts Receivable Management Act (Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government **Code**).

(f) A regional center may grant an exemption to the assessment of an annual family program fee if the parents demonstrate any of the following:

(1) That the exemption is necessary to maintain the child in the family home.

(2) The existence of an extraordinary event that impacts the parents' ability to pay the fee or the parents' ability to meet the care and supervision needs of the child.

(3) The existence of a catastrophic loss that temporarily limits the ability of the parents to pay and creates a direct economic impact on the family. For purposes of this paragraph, catastrophic loss may include, but is not limited to, natural disasters, accidents involving, or major injuries to, an immediate family member, and extraordinary medical expenses.

(g) Services shall not be delayed or denied for a consumer or child based upon the lack of payment of the annual family program fee.

(h) For purposes of this section, "parents" means the parents, whether natural, adoptive, or both, of a child with developmental disabilities under 18 years of age.

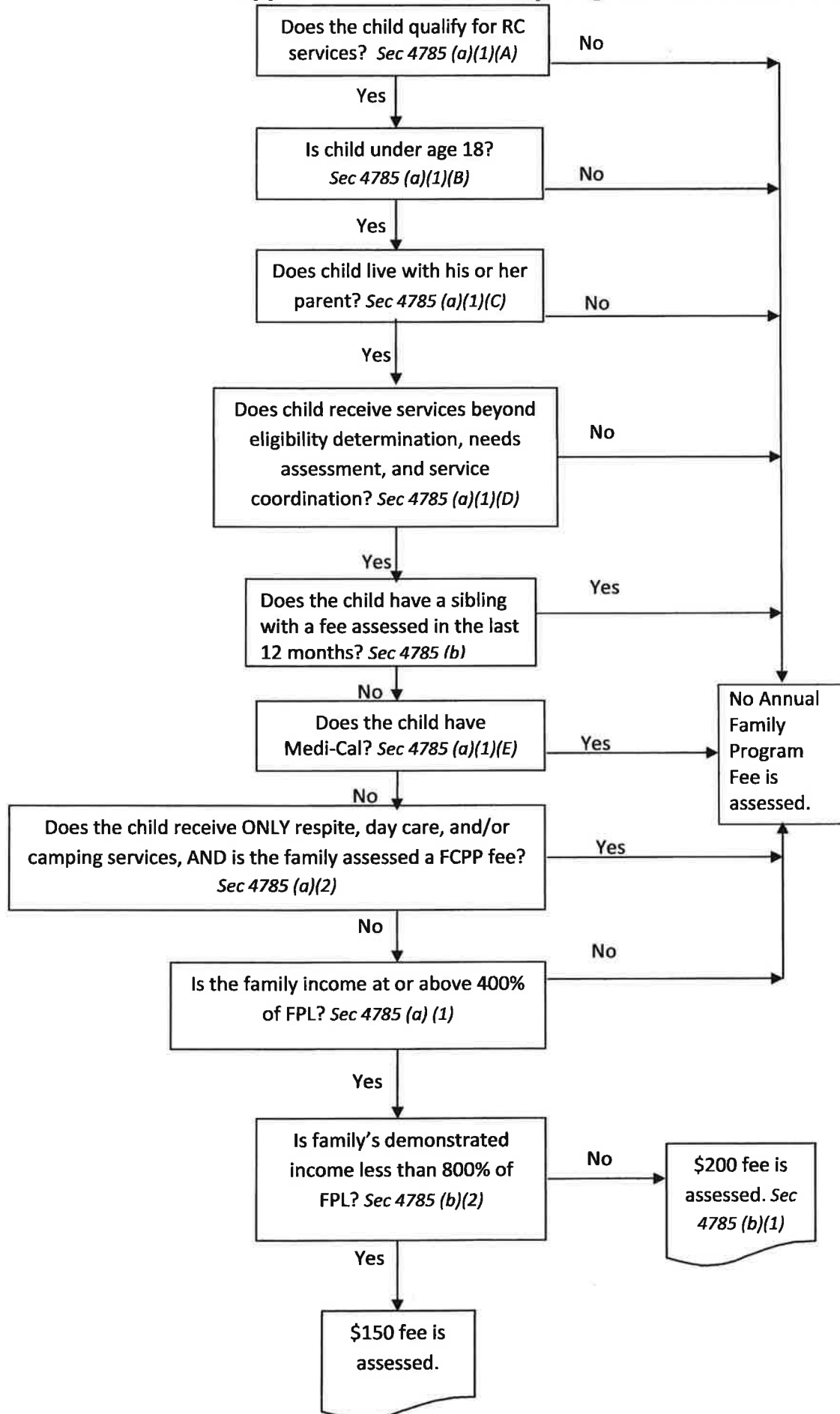
(i) Parents described in paragraph (1) of subdivision (a) shall be jointly and severally responsible for the annual family program fee, unless a court order directs otherwise.

(j) (1) "Total adjusted gross family income" means income acquired, earned, or received by parents as payment for labor or services, support, gift, or inheritance, or parents' return on investments. It also includes the community property interest of a parent in the gross adjusted income of a stepparent.

(2) The total adjusted gross family income shall be determined by adding the gross income of both parents, regardless of whether they are divorced or legally separated, unless a court order directs otherwise, or unless the custodial parent certifies in writing that income information from the noncustodial parent cannot be obtained from the noncustodial parent and in this circumstance only the income of the custodial parent shall be used to determine the annual family program fee.

(k) This section shall become inoperative on June 30, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before June 30, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

Appendix B - Annual Family Program Fee Decision Tree



APPENDIX C

Consumer's Name	RC #	UCI #	Fee Assessment Date	Amount Paid

(Please provide information on the back for other siblings receiving regional center services.)

You have been assessed an Annual Family Program Fee of \$_____ for services provided to your child. This fee is authorized by state law (Welfare and Institutions Code Section 4785). One fee is assessed per family regardless of the number of children receiving services. It is a yearly fee. The annual income amount used to set your fee depends on your family size. Please refer to the chart on the reverse side of this form to determine your fee amount.

If you think you should get a lower fee, talk to your regional center about the documentation necessary for them to determine if you may qualify for a lower fee.

Welfare and Institutions Code Section 4710.5 provides parents with an opportunity to request a fair hearing if you disagree with your fee assessment. If you wish to have your fee assessment reviewed under this statute, you must complete a Fair Hearing Request form within 30 days of the assessment date. You may access this form through the regional center, or, through the department's website www.dds.ca.gov, form number DS1805.

Payment is due upon receipt of this notice. Please include the bottom of this form when you mail your check or money order, made out to "DDS – Annual Family Program Fee". So we can give you credit for the payment, please add the UCI and RC numbers shown above on your check or money order.

If you have any questions regarding your fee, please contact your regional center.

IMPORTANT: DETACH AND RETURN THE BOTTOM PORTION OF THIS STATEMENT WITH YOUR PAYMENT TO ENSURE PROPER CREDIT

Annual Family Program Fee - PAYMENT FORM

Indicate Regional Center and UCI # on all inquiries and payments.

Consumer's Name	RC #	UCI #	Fee Assessment Date	Amount Paid

(Please provide information on the back for other siblings receiving regional center services.)
(Confidential Consumer Information - see California Welfare and Institutions Code 4514)

Mail to: State of California
Department of Developmental Services
Annual Family Program Fee
Accounting Section, Room 310, MS 3-7
P. O. Box 944202
Sacramento, CA 94244-2020

Each family with an AFPP eligible child or children receiving services through the regional center are assessed a single annual fee. Please provide information below on other siblings receiving regional center services.

Consumer's Name	RC #	UCI #

Families with annual incomes at or above 800 percent of the Federal Poverty Level (FPL) are assessed an annual fee of \$200.00. Families with incomes between 400 and 799 percent of the FPL are assessed an annual fee of \$150.00. Families with incomes below 400 percent of the FPL are not assessed a fee. Please use the chart below to estimate your fee amount based on family size and parents' annual income. If you think your income qualifies you for a lower fee please contact the regional center.

FAMILY SIZE	ANNUAL INCOME	FEE	ANNUAL INCOME	FEE	ANNUAL INCOME	FEE
2	\$0 - \$58,839	\$0.00	\$58,840 - \$117,679	\$150.00	\$117,680 - Over	\$200.00
3	\$0 - \$74,119	\$0.00	\$74,120 - \$148,239	\$150.00	\$148,240 - Over	\$200.00
4	\$0 - \$89,399	\$0.00	\$89,400 - \$178,799	\$150.00	\$178,800 - Over	\$200.00
5	\$0 - \$104,679	\$0.00	\$104,680 - \$209,359	\$150.00	\$209,360 - Over	\$200.00
6	\$0 - \$119,959	\$0.00	\$119,960 - \$239,919	\$150.00	\$239,920 - Over	\$200.00

For family size larger than above see DDS website: www.dds.ca.gov

Please provide information below on other siblings receiving regional center services.

Consumer's Name	RC #	UCI #

APPENDIX D

Welfare and Institutions Code Section 4785 requires parents of qualifying children under 18 years of age to pay an annual family program fee based on adjusted gross family income.

Assessed Amount \$ _____

Assessment Date: _____

Please complete the following information.

Consumer Name(s)	RC #	UCI #	Date of Birth

<u>PARENT - 1</u>	<u>PARENT - 2</u>
Social Security Number - _____	Social Security Number - _____
Name First _____ MI _____ Last _____ Date of Birth _____	Name First _____ MI _____ Last _____ Date of Birth _____
Address Street _____ City _____ State _____ Zip _____	Address Street _____ City _____ State _____ Zip _____
Phone Numbers Home _____ Work _____ Cell _____ Email _____	Phone Numbers Home _____ Work _____ Cell _____ Email _____

Employer	Employer
Name _____ Street _____ City _____ State _____ Zip _____ Phone # _____	Name _____ Street _____ City _____ State _____ Zip _____ Phone # _____

Parent 1 – Signature _____

Date _____

Parent 2 – Signature _____

Date _____

(CONFIDENTIAL CONSUMER INFORMATION - see California Welfare and Institutions Code 4514)

Appendix E

ANNUAL FAMILY PROGRAM FEE - SCHEDULE Effective July 1, 2011

This document illustrates the Federal Poverty Level effective January 2011, which should be used for assessments of the Annual Family Program Fee.

Number of Persons Living In The Family Home									FPL %
2	3	4	5	6	7	8	9	10	400%
\$58,840	\$74,120	\$89,400	\$104,680	\$119,960	\$135,240	\$150,520	\$165,800	\$181,080	800%
\$117,680	\$148,240	\$178,800	\$209,360	\$239,920	\$270,480	\$301,040	\$331,600	\$362,160	
FPL									
2011	\$14,710	\$18,530	\$22,350	\$26,170	\$29,990	\$33,810	\$37,630	\$41,450	\$45,270

**360 - FRANK D. LANTERMAN REGIONAL CENTER
ANNUAL FAMILY PROGRAM FEE
FY 2011/2012**

Appendix F

	RC	Primary UCI #	Secondary UCI #	Secondary UCI #	Primary Consumer		Payment Amount	Date Received
					Last Name	First Name		
1	360	6053370	6053371	6053372	O'Neal	Travis	\$200	8/1/2011
2	360	6096111			Grill	Joshua	\$150	8/11/2011
3	360	6085845			Luna	Charles	\$150	8/29/2011
4	360	6044047	6026454		Mc Donald	Gale	\$200	9/5/2011
5	360	6043470			Hernandez	Maria	\$200	9/14/2011
6	360	6095462			Thomas	Jessie	\$150	9/22/2011
7	360	6095768			Pina	Fernando	\$200	9/22/2011
8	360	6045834	6043764	6053099	Anderson	Mary	\$200	9/28/2011
9	360							
10	360							
11	360							
12	360							
13	360							
14	360							
15	360							
16	360							
17	360							
18	360							
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40	360							
41	360							
42	360							
43	360							
44	360							
45	360							
46	360							

SAMPLE:

UCI & NAMES NOT ACTUAL CONSUMERS

APPENDIX G

Consumer's Name	RC #	UCI #	Fee Assessment Date	Amount Paid

(Please provide information on the back for other siblings receiving regional center services.)

State records do not show a payment for your Annual Family Program Fee. You have been assessed an Annual Family Program Fee of \$ _____ for services provided to your child. This fee is required by state law (Welfare and Institutions Code Section 4785). One fee is assessed per family regardless of the number of children receiving services. It is a yearly fee. The annual income amount used to set your fee depends on your family size. Please refer to the chart on the reverse side of this form to determine your fee amount.

If you think you should get a lower fee, talk to your regional center about the documentation necessary for them to determine if you may qualify for a lower fee.

Welfare and Institutions Code Section 4710.5 provides parents with an opportunity to request a fair hearing if you disagree with your fee assessment. If you wish to have your fee assessment reviewed under this statute, you must complete a Fair Hearing Request form within 30 days of the assessment date. You may access this form through the regional center, or, through the department's website www.dds.ca.gov, form number DS1805.

Payment is due upon receipt of this notice. Please include the bottom of this form when you mail your check or money order, made out to "DDS – Annual Family Program Fee". So we can give you credit for the payment, please add the UCI and RC numbers shown above on your check or money order.

If you have any questions regarding your fee, please contact your regional center.

IMPORTANT: DETACH AND RETURN THE BOTTOM PORTION OF THIS STATEMENT WITH YOUR PAYMENT TO ENSURE PROPER CREDIT

Annual Family Program Fee Payment Form
SECOND NOTICE

Indicate Regional Center and UCI # on all inquiries and payments.

Consumer's Name	RC #	UCI #	Fee Assessment Date	Amount Paid

(Please provide information on the back for other siblings receiving regional center services.)
(Confidential Consumer Information - see California Welfare and Institutions Code 4514)

Mail to: State of California
Department of Developmental Services
Annual Family Program Fee
Accounting Section, Room 310, MS 3-7
P. O. Box 944202
Sacramento, CA 94244-2020

Each family with an AFPP eligible child or children receiving services through the regional center are assessed a single annual fee. Please provide information below on other siblings receiving regional center services.

Consumer's Name	RC #	UCI #

Families with annual incomes at or above 800 percent of the Federal Poverty Level (FPL) are assessed an annual fee of \$200.00. Families with incomes between 400 and 799 percent of the FPL are assessed an annual fee of \$150.00. Families with incomes below 400 percent of the FPL are not assessed a fee. Please use the chart below to estimate your fee amount based on family size and parents' annual income. If you think your income qualifies you for lower fee, please contact the regional center.

FAMILY SIZE	ANNUAL INCOME	FEE	ANNUAL INCOME	FEE	ANNUAL INCOME	FEE
2	\$0 - \$58,839	\$0.00	\$58,840 - \$117,679	\$150.00	\$117,680 - Over	\$200.00
3	\$0 - \$74,119	\$0.00	\$74,120 - \$148,239	\$150.00	\$148,240 - Over	\$200.00
4	\$0 - \$89,399	\$0.00	\$89,400 - \$178,799	\$150.00	\$178,800 - Over	\$200.00
5	\$0 - \$104,679	\$0.00	\$104,680 - \$209,359	\$150.00	\$209,360 - Over	\$200.00
6	\$0 - \$119,959	\$0.00	\$119,960 - \$239,919	\$150.00	\$239,920 - Over	\$200.00

For family size larger than above see DDS website: www.dds.ca.gov

Please provide information below on other siblings receiving regional center services.

Consumer's Name	RC #	UCI #

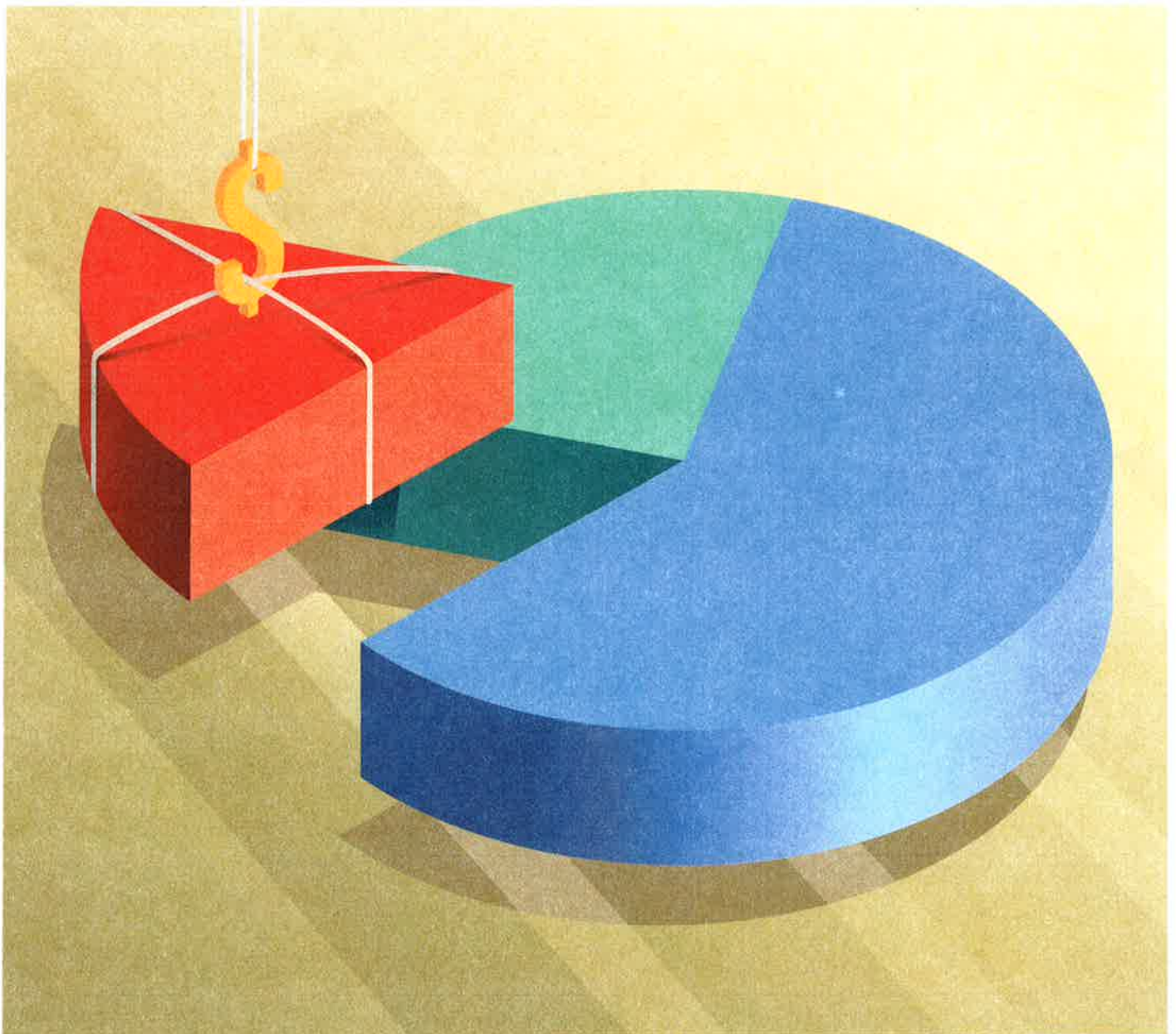


Mac Taylor
Legislative Analyst

August 2011

The Budget Package

2011-12 California Spending Plan



Chapter 1

Key Features of the 2011-12 Budget Package

BUDGET OVERVIEW

Total State and Federal Funds Spending

The 2011-12 state spending plan includes total budget expenditures of \$120.1 billion from the General Fund and special funds, as shown in Figure 1. This consists of \$85.9 billion from the General Fund and \$34.1 billion from special funds. While General Fund spending has dropped by around 6 percent from 2010-11, this has, in part been offset by increases in special fund spending as the state shifts some programs—from state to local responsibility under what has been called “realignment”—from General Fund support to special fund support. Federal funds spending continues to decline with the expiration of much of the funding made available through the American Recovery and Reinvestment Act.

The Condition of the General Fund

Figure 2 (see next page) summarizes the estimated General Fund condition for 2010-11 and 2011-12.

2010-11: Third Consecutive Year to End With a Deficit. Under the spending plan, the General Fund ends 2010-11 with a year-end deficit of \$1.2 billion. This is the third year in a row in which the state has ended the year with a General Fund deficit (albeit a smaller deficit than was seen at the end of 2009-10, when the deficit was \$6.3 billion).

Figure 1

Total State and Federal Fund Expenditures

(Dollars in Millions)

Fund Type	Actual 2009-10	Estimated 2010-11	Enacted 2011-12	Change From 2010-11	
				Amount	Percent
General Fund	\$87,014	\$91,480	\$85,937	-\$5,543	-6.1%
Special funds	23,514	31,219	34,180	2,961	9.5
Budget Totals	\$110,528	\$122,699	\$120,117	-\$2,582	-2.1%
Selected bond funds	\$6,250	\$13,195	\$9,360	-\$3,836	-29.1%
Federal funds	89,088	91,459	79,182	-12,276	-13.4

Figure 2
General Fund Condition

(Dollars in Millions)

	2010-11	2011-12	Percent Change
Prior-year balance	-\$4,507	-\$1,206	
Revenues and transfers	94,781	88,456	-6.7%
Total resources available	\$90,274	\$87,250	
Total expenditures	\$91,480	\$85,937	-6.1%
Fund balance	-\$1,206	\$1,313	
Encumbrances	\$770	\$770	
Reserve	-\$1,976	\$543	

Note: Department of Finance estimates.

2011-12: Small Reserve Expected. The budget projects General Fund revenues and transfers of \$88.5 billion and expenditures of \$85.9 billion in 2011-12. The resulting \$2.6 billion operating surplus is necessary for the state to address the carry-in deficit and rebuild a reserve balance of \$0.5 billion by June 30, 2012. This reserve is based, in large part, on assumed revenue growth between 2010-11 and 2011-12.

Solutions Adopted During the Budget Process

Figure 3 shows the solutions adopted to close the budget gap. The budget plan (including gubernatorial vetoes) includes the following actions (based upon our office's categorization):

- \$13.2 billion of revenue actions, of which \$11.8 billion is assumed growth in the state's baseline revenues in 2010-11 and 2011-12. The final budget did not renew any of the temporary tax increases adopted in 2009, all of which expired by the end of 2010-11. These budget actions are discussed in more detail in "Chapter 2."
- \$11.1 billion of expenditure-related solutions (including ongoing and temporary reductions). These actions are discussed in more detail in "Chapter 3."
- \$2.9 billion of largely one-time loans and transfers.

Additional Cuts of Up to \$2.5 Billion if General Fund Revenues Fall Short. In addition to the expenditure reductions shown in Figure 3, the budget package also contains a mechanism for further reducing expenditures in 2011-12 if General Fund revenues are estimated to fall short of the amount contained in the *2011-12 Budget Act*. As shown in Figure 4 (see page 4), the cuts are in two tiers: first, if revenues are forecast to be \$1 billion below the budget level, and second, if the revenue is forecast to be \$2 billion below.

Figure 3

Actions to Close 2011-12 Budget Gap

Two-Year General Fund Benefit (In Billions)

Expenditure-Related Actions	
Reduce Medi-Cal spending	\$2.0
Reduce UC and CSU budgets	1.4
Fund transportation debt costs and loans primarily using weight fees	1.1
Reduce Proposition 98 funding ^a	0.9
Shift Proposition 63 funds to support community mental health services	0.9
Reduce CalWORKs spending	0.8
Reduce court budget and suspend court construction projects	0.7
Implement cost-containment measures and increase federal funding for developmental services	0.6
Score savings from efficiencies in state operations and reduced employee compensation costs	0.5
Reduce In-Home Supportive Services spending	0.4
Suspend, defer, or repeal state mandates	0.3
Reduce Receiver's inmate medical care budget and other CDCR spending	0.4
Reduce SSI/SSP grants to individuals to the federal minimum	0.2
Redirect funding from the Gas Consumption Surcharge	0.2
Reduce Cal Grant program	0.2
Other expenditure reductions (net)	0.5
Total	\$11.1
Revenue Actions	
General Fund Revenue Actions	
Score additional baseline revenues	\$11.8
Adopt tax shelter amnesty	0.2
Enforce sales and use tax collection on out-of-state retailers	0.2
Extend the existing Medi-Cal hospital fee	0.2
Maintain existing revenue accrual policy	0.2
Adopt other revenue measures	0.2
Subtotal	(\$12.7)
Local Realignment Revenue Actions^b	
Increase Vehicle Registration Fee by \$12 to fund Department of Motor Vehicles	\$0.3
Redirect Vehicle License Fee funds previously dedicated to Orange County and to cities	0.2
Subtotal	(\$0.5)
Total	\$13.2
Borrowing and Transfers	
Enact new loans, loan extensions, and transfers from special funds	\$2.5
Borrow from Disability Insurance Fund for Unemployment Insurance interest payments	0.3
Transfer tribal gaming transportation payments to the General Fund	0.1
Total	\$2.9
Grand Total, All Budget Actions	\$27.2

^a Net effect of all budget actions on the General Fund share of the minimum guarantee—including increases in baseline revenues, redirection of a portion of the state sales tax for realignment, and the shift of certain local property tax revenues from redevelopment agencies to schools.

^b The budget package also dedicates 1.0625 percentage points of the existing state sales tax rate to pay for realignment. This revenue will be placed into a dedicated fund for local entities to use to fund services that are transferred from state to local responsibility.

Chapter 41, Statutes of 2011 (AB 121, Committee on Budget), Chapter 43, Statutes of 2011 (AB 114, Committee on Budget), and Chapter 34, Statutes of 2011 (SB 73, Committee on Budget) provide the mechanisms and the upper limits for the additional cuts (also referred to as “trigger cuts”).

Department of Finance (DOF) Will Select Revenue Level in December 2011.

The provisions of Chapter 41 require that DOF compare its updated revenue estimate for 2011-12 with our office's estimate (presented in November). The higher of these two estimates will be compared with the forecast contained in the *2011-12 Budget Act*. The DOF has the authority to reduce expenditures as laid out in Chapter 41.

Restructuring of Some Aspects of the State-Local Relationship. The budget package shifts \$5.6 billion in state program costs to counties and provides a comparable amount of funds to support these new county commitments. The programs shifted include some health and human services programs (such

Figure 4

Trigger Reductions if Revenues Fall Short of Forecasts^a

General Fund Benefit (In Millions)

Tier 1 Trigger—Revenues Are Forecast to Be \$1 Billion Below Budget Act

Reduce University of California budget	\$100
Reduce California State University budget	100
Reduce funding for developmental services	100
Reduce service hours for In-Home Supportive Services (IHSS) recipients by 20 percent	100
Increase charges to counties for youthful offenders sent to CDCR facilities	72
Reduce community college funding (offset with a \$10 per unit fee increase)	30
Reduce child care funding by 4 percent	23
Reduce CDCR budget	20
Eliminate state grants for local libraries	16
Eliminate vertical prosecution grants	15
Extend Medi-Cal provider cuts and copayments to all managed care plans	15
Eliminate funding for local antifraud efforts in IHSS	10
Subtotal	(\$601)

Tier 2 Trigger—Revenues Are Forecast to Be \$2 Billion Below Budget Act

Reduce school year by seven days	\$1,540
Eliminate Home-to-School Transportation	248
Reduce community colleges budget	72
Subtotal	(\$1,860)
Total	\$2,461

^a The Department of Finance could reduce spending by less than the amount shown in each category. Legislation includes a specific formula directing the amount of reductions to K-12 schools based on the amount by which revenues fall short of *Budget Act* estimates.

CDCR = California Department of Corrections and Rehabilitation.

as child welfare services and mental health programs) and some criminal justice programs. We discuss the details of these shifts including the funding mechanism in more detail in “Chapter 3.”

Additional Cash Deferrals Part of the Budget. In common with recent years, the budget package contains provisions that give the executive branch more flexibility in the management of the state’s cash in 2011-12. These provisions are, for the most part, similar to those from the prior fiscal year, with payment delays of up to around \$6 billion to schools, universities, and local governments. The budget package also created a new account into which the University of California (UC) and California State University can deposit funds normally outside of the state’s control that will be available for cash borrowing purposes.

EVOLUTION OF THE BUDGET

The Governor signed the *2011-12 Budget Act* on June 30, 2011. The Legislature passed three iterations of the budget bill—one in March and two in June—all using the new majority-vote provision contained in Proposition 25 (an initiative adopted by voters in November 2010). The March version was not sent to the Governor, the first June version was vetoed, and the third budget bill was eventually signed. The Legislature also sent a number of budget-related trailer bills to the Governor in both March and June. (The budget and related bills are listed in Figure 5, see next page.)

Governor’s January Budget and Special Session

\$25.4 Billion Budget Problem Estimated in January. On January 10, 2011, the Governor released the *2011-12 Governor’s Budget* shortly after assuming office. At that time, the administration put the size of the budget problem facing the Legislature at \$25.4 billion—consisting of an expected General Fund deficit of \$8.2 billion at the end of 2010-11 (assuming no corrective actions by the state) and a \$17.2 billion operating deficit in 2011-12. The Governor’s January budget contained \$26.4 billion of actions, according to administration estimates, which would have solved the \$25.4 billion problem and left the state with around \$1 billion reserve at the end of 2011-12.

Governor’s Budget Plan Included a Mix of Expenditure Reductions and Tax Increases. Of the \$26.4 billion in proposed budget actions, the Governor’s January plan included some \$12.5 billion in reductions to General Fund state expenditures (including both reductions in services and benefits and use of other funding sources in lieu of the General Fund). The Governor also proposed \$14 billion in new revenues primarily from renewing four temporary taxes that were all to expire in 2011. (These additional revenues would have been offset, in part, by a \$2 billion increase in the Proposition 98 minimum funding guarantee for schools and community colleges.) The remaining \$1.9 billion in actions in the Governor’s budget were from borrowing from special funds and other sources.

Governor Proposed Accelerated Budget Process. Under the Governor's January plan, there would have been a special statewide election in June 2011 where voters would have been asked to extend the temporary taxes for an additional five years as well as make some constitutional changes to facilitate the Governor's realignment proposal to shift funding and responsibility to local governments for various services. To achieve this, the Governor targeted early March for the completion of the budget process.

Governor Drops Sale/Leaseback Plans. In February 2011, the Governor decided to reverse a 2009-10 budget action and not pursue the sale of certain state-owned buildings that would then be leased back to the state. The loss of these revenues increased the size of the forecast deficit by \$1.2 billion. The Governor proposed new budget actions—primarily borrowing from special funds—to replace this lost revenue.

Legislature Passed Majority Vote Budget in Mid March. Using the provisions of Proposition 25, the Legislature passed a number of budget-related

Figure 5**2011-12 Budget and Budget-Related Legislation**

Bill Number	Chapter	Author	Subject
2011-12 Regular Session			
SB 87	33	Leno	2011-12 Budget Act
SB 70	7	Budget Committee	Education
SB 72	8	Budget Committee	Human services
SB 73	34	Budget Committee	Health and human services "trigger cuts"
SB 74	9	Budget Committee	Developmental services
SB 78	10	Budget Committee	Judiciary
SB 79	142	Budget Committee	Cash management (create investment account for state agencies)
SB 80	11	Budget Committee	General government
SB 82	12	Budget Committee	Cash management
SB 84	13	Budget Committee	Special fund loans and transfers
SB 86	14	Budget Committee	Tax enforcement
SB 89	35	Budget Committee	Vehicle license fees (VLFs) and vehicle registration fees
SB 90	19	Steinberg	Medi-Cal hospital quality assurance fees
SB 91	119	Budget Committee	Adult day health care centers
SB 92	36	Budget Committee	Public safety
SB 93	143	Budget Committee	IHSS changes
SB 94	21	Budget Committee	VLFs and vehicle registration fees
AB 94	23	Budget Committee	Criminal justice realignment
AB 95	2	Budget Committee	Resources
AB 97	3	Budget Committee	Health
AB 99	4	Budget Committee	Shift of Proposition 10 funds to fund health services for children
AB 100	5	Budget Committee	Shift of Proposition 63 funds to fund mental health services

Continued

bills as well as the budget bill in mid-March 2011 with a majority vote. However, as the Legislature was unable to achieve a two-thirds vote for the budget package, the required constitutional amendment for the June special election was not passed, and the June special election was not called. In total, the Legislature passed, and the Governor signed, budget-related legislation containing about \$11 billion in expenditure-related actions. (Some of these bills were passed during the First Extraordinary Session that was called in response to the fiscal emergency declared by the former Governor in December 2010.)

May Revision Proposals Included Higher Revenue Forecasts. The updated forecast released by the administration as part of the May Revision forecast included an additional \$6.6 billion in baseline revenues over 2010-11 and 2011-12. While the May Revision contained many of the proposals from the Governor's January budget, including the plan to seek voter approval of revenue extensions, the additional baseline revenues allowed the Governor to (1) scale back some of the revenue proposals, (2) increase the proposed level of

Bill Number	Chapter	Author	Subject
AB 102	29	Budget Committee	Health
AB 104	37	Budget Committee	Developmental services
AB 105	6	Budget Committee	Transportation
AB 106	32	Budget Committee	Human services
AB 107	134	Budget Committee	Resources
AB 108	135	Budget Committee	Education
AB 109	15	Budget Committee	Criminal justice realignment
AB 110	— ^a	Blumenfield	Implementation of budget reductions to the courts
AB 111	16	Budget Committee	Criminal justice realignment
AB 112	30	Budget Committee	Amendments to the <i>2010-11 Budget Act</i>
AB 114	43	Budget Committee	Education funding
AB 115	38	Budget Committee	Transportation
AB 116	136	Budget Committee	Criminal justice realignment
AB 117	39	Budget Committee	Public safety realignment
AB 118	40	Budget Committee	Sales tax shift for realignment
AB 119	31	Budget Committee	State government
AB 120	133	Budget Committee	Resources
AB 121	41	Budget Committee	Overall trigger cuts
2011-12 First Extraordinary Session			
ABX1 19	4	Blumenfield	Long-term care
ABX1 26	5	Blumenfield	Elimination of redevelopment agencies
ABX1 27	6	Blumenfield	Creation of new, voluntary redevelopment agency program
ABX1 28	7	Blumenfield	Enforcement of sales and use tax collection on out-of-state retailers
ABX1 29	8	Blumenfield	State Responsibility Area fire fee on landowners

^a At the time of publication, this bill has not yet been sent to the Governor for his signature.

education funding, and (3) reduce the level of proposed budgetary borrowing. Due to the timing of a potential special election, the administration sought a six-month extension of taxes prior to voter approval.

First Budget Passed by Legislature Vetoed by the Governor. The Legislature was unable to pass the Governor's proposals that required a two-thirds vote in both houses of the Legislature (that is, the proposals to extend temporary taxes and hold a special election). The Legislature passed a second budget bill on June 15, 2011, that did not contain any additional tax revenues. This budget included an almost \$3 billion reduction to education funding, a change in how the state sales tax was shared with locals, and a deferral of payments to UC to the next fiscal year. The Governor vetoed this budget bill the following day. Following the Governor's veto, the State Controller stated that the budget passed by the Legislature did not meet the requirements of Proposition 25 as it was "not balanced" and announced that legislators would forfeit their pay for the days between June 15 and the date when a new, balanced budget was passed.

Budget Package Passed on June 28, 2011. The final budget package was passed on June 28, 2011 and was signed by the Governor on June 30, 2011. The measures acted upon at this point in the process contained no proposals that would have required a two-thirds vote in both houses.

Governor's Vetoes. When signing the budget, the Governor vetoed \$24 million in General Fund spending and \$244 million in special funds spending that had been approved by the Legislature. The vetoes included:

- A \$235 million reduction in funds for mass transportation.
- A \$23 million reduction to reflect a delay in shifting certain responsibilities associated with realignment of criminal justice programs to the trial courts.

HEALTH

The 2011-12 spending plan provides \$19.7 billion from the General Fund for health programs. This is an increase of \$2.2 billion, or 12.5 percent, compared to the revised prior-year spending level, as shown in Figure 11. The net increase largely reflects the following: (1) increases in caseload and utilization of services, (2) the expiration of federal economic stimulus funds used to temporarily offset state General Fund costs, (3) the adoption of significant health program reductions and cost-containment measures, and (4) shifts in the funding sources used to support various health programs. The major program-specific changes and cost-containment measures are summarized in Figure 12 (see next page) and discussed in more detail below.

Expiration of Enhanced Federal Funding. The ARRA, the 2009 federal economic stimulus law, and subsequent federal legislation extended fiscal relief to the states. California benefited from an enhanced federal medical assistance percentage (FMAP), which is the federal share of Medicaid costs, from October 2008 through June 2011. Normally the state pays 50 percent of costs for most Medi-Cal services and the federal government pays the balance. The ARRA temporarily increased the federal matching share to 61.59 percent. Subsequent federal legislation extended the enhanced FMAP for an additional six months, but reduced the level of federal funding

Figure 11

Major Health Programs and Departments—Spending Trend

General Fund (Dollars in Millions)

	2009-10	2010-11	2011-12	Change 2010-11 to 2011-12	
				Amount	Percent
Medi-Cal—Local Assistance	\$10,136	\$12,437	\$14,701	\$2,264	18.2%
Department of Developmental Services	2,419	2,451	2,622	171	7.0
Department of Mental Health	1,711	1,852	1,314 ^a	-538	-29.0
Healthy Families Program—Local Assistance	217	126	286	160	127.0
Department of Public Health	184	186	226	40	21.5
Department of Alcohol and Drug Programs	189	189	222	33	17.5
Other Department of Health Care Services programs	106	32	96	64	200.0
Emergency Medical Services Authority	8	8	7	-1	-12.5
All other health programs (including state support)	212	221	219	-2	-0.9
Totals	\$15,182	\$17,502	\$19,693	\$2,191	12.5%
Costs paid from temporary federal funds	\$3,995	\$3,777	\$31		
Estimated realignment savings ^b	—	—	-\$184		

^a The budget uses \$862 million in Proposition 63 funds in lieu of General Fund in 2011-12 to support three mental health services programs.

^b Savings not reflected in numbers above.

available during this phase-out period in comparison to ARRA. The budget adjusts for the loss of about \$3.8 billion in federal funding due to the expiration of the enhanced FMAP that the state received in 2010-11, thereby increasing state General Fund costs in the budget year. While the expiration of enhanced federal funding mainly affects General Fund expenditure levels for Medi-Cal benefits provided by DHCS, it also affects components of the Medi-Cal Program administered by other state departments that administer health programs.

Figure 12

Major Changes—State Health Programs 2011-12 General Fund Effect

(In Millions)

Program	Amount
Medi-Cal—Department of Health Care Services	
Impose provider payment reduction of up to 10 percent	-\$623
Impose mandatory copayments on Medi-Cal beneficiaries	-511
Implement unallocated reduction	-345
Eliminate Adult Day Health Care (ADHC) benefit	-170
Provide funds to transition ADHC beneficiaries to other services	85
Adopt fund shifts and one-time funding sources	-128
Collect additional drug rebates	-64
Impose “soft cap” on physician and clinic visits	-41
Collect state share of intergovernmental transfers	-34
Impose utilization limits and eliminate certain benefits	-16
Department of Mental Health	
Shift support for mental health programs from General Fund to Proposition 63 funds	-763
Provide resources to improve safety and security in state hospitals	10
Expand psychiatric program at California Medical Facility—Vacaville	6
Provide funds to activate Stockton health care facility	1
Department of Developmental Services	
Implement various cost-containment measures for community programs	-284
Extend provider payment reduction of 4.25 percent	-92
Assume additional federal funds from various initiatives	-78
Reduce funding for Developmental Centers	-28
Department of Public Health	
Impose several measures to achieve public health savings	-8
Healthy Families Program	
Implement unallocated reduction	-103
Increase premiums paid by families for children's health insurance	-22
Increase copayments for emergency department visits and inpatient hospital stays	-6
Reduce the scope of the vision benefit	-3

Federal Waiver Helps State Achieve Savings. The budget assumes \$400 million in General Fund savings related to Medi-Cal's 1115 demonstration waiver renewal. Under the waiver, the state may claim up to \$400 million in federal funds to offset costs in designated state health programs that are generally supported only with state funds. The waiver savings are reflected in the budget as follows: (1) \$219 million in Medi-Cal local assistance, (2) \$74 million in AIDS Drug Assistance Program (ADAP) savings, and (3) \$106 million in savings for DHCS Family Health Programs.

Administration States Intent to Eliminate Departments. As part of its 2011-12 budget proposal, the administration stated its intent to eventually eliminate the Department of Mental Health (DMH) and DADP. Responsibility for the programs administered by DMH and DADP would be transferred to other departments, agencies, and government entities. The administration indicates that as part of its 2012-13 budget proposal, it will submit a detailed plan to eliminate these two departments.

Department of Health Care Services (Medi-Cal)

The spending plan provides \$14.7 billion from the General Fund for Medi-Cal local assistance expenditures administered by DHCS. This is an increase of almost \$2.3 billion, or 18 percent, in General Fund support for Medi-Cal local assistance compared to the revised prior-year spending level. In addition to growth in caseload and utilization, several major factors contributed to this net increase:

- ***Expiration of FMAP.*** General Fund support was needed to offset the loss of \$3.2 billion due to the expiration of the enhanced FMAP.
- ***Acceleration of Provider Payments.*** The administration took advantage of the enhanced FMAP before it expired by making payments to Medi-Cal providers and some managed care plans earlier than previously scheduled to achieve General Fund savings of \$144 million. The accelerated payments resulted in a prior year cost of \$691 million and reduced costs of \$835 million in 2011-12.
- ***Hospital Quality Assurance Fee.*** The revised prior-year spending level reflected an estimated \$770 million in hospital fee revenue from the imposition of a quality insurance fee used to offset General Fund costs. As we discuss below, pending legislation would again impose a quality assurance fee on hospitals that could generate an estimated \$320 million in General Fund relief in 2011-12.
- ***Other Changes.*** The spending plan includes program reductions, fund shifts, and cost-containment measures that reduce program costs as shown in Figure 12.

We discuss the most significant spending changes that were adopted in the Medi-Cal Program budget in more detail below.

Provider Payment Reductions of Up to 10 Percent. The budget assumes \$623 million in General Fund savings from reducing Medi-Cal provider payments by up to 10 percent for physicians, pharmacies, clinics, medical transportation, home health, family health programs, and other providers. The budget authorizes the director of DHCS to adjust these payment reductions based on studies of whether such reductions meet certain federal requirements. Implementation of this action requires federal approval.

Mandatory Copayments. The budget assumes \$511 million in General Fund savings by imposing mandatory copayments on physician and clinic visits (\$5), dental visits (\$5), prescriptions (\$3 for preferred drugs, \$5 for non-preferred drugs), emergency and nonemergency use of emergency rooms (\$50), and hospital inpatient visits (\$100 per day, \$200 maximum per admission). The copayments apply to all Medi-Cal enrollees and providers may deny the service if the enrollee does not make the copayment. Implementation of this action requires federal approval.

Unallocated Reduction. The spending plan includes a \$345 million unallocated reduction to the Medi-Cal Program. A large portion of the unallocated savings may be achieved through the passage of pending legislation discussed above which would impose a quality assurance fee on hospitals potentially generating \$320 million in General Fund relief.

Elimination of Adult Day Health Care Benefit. The spending plan assumes elimination of Adult Day Health Care (ADHC) as an optional Medi-Cal benefit for savings of about \$170 million to the General Fund. The spending plan also provides up to \$85 million from the General Fund to assist ADHC beneficiaries in transitioning to other services in order to minimize the risk of institutionalization. However, the Governor vetoed legislation that would have created a new type of ADHC program, to be called the Keeping Adults Free from Institutions Program, to provide services to eligible Medi-Cal beneficiaries who are at high risk of institutionalization. The Governor instead proposed to continue efforts to transition beneficiaries who previously received ADHC into other existing home and community-based services.

Fund Shifts and One-Time Funding Sources. The budget assumes one-time fund shifts and other one-time funding sources totaling \$128 million to offset General Fund spending in the Medi-Cal Program. These funds include: (1) a \$45.2 million shift from the Inpatient Payment Adjustment Fund, (2) a \$32.7 million shift from Private Hospital Supplemental Fund, and (3) \$50.1 million from a court settlement with Quest Diagnostics Inc. to reflect the repayment of alleged overcharges for testing services. The budget does not assume that a shift of \$1 billion in Proposition 10 funds approved in a March 2011 budget action will be used to support Medi-Cal as had initially been proposed.

Managed Care Drug Rebates. The budget assumes savings of a benefit of \$64 million to the General Fund from new authority to collect rebates from drug manufacturers for medications provided through Medi-Cal managed care plans.

“Soft Cap” on Physician and Clinic Visits. The budget assumes \$41 million in General Fund savings through a soft cap on physician and clinic visits for adults. This utilization limit of seven annual visits can be waived through a physician certification that additional visits are medically necessary.

Other Utilization Limits and Benefit Eliminations. The budget assumes about \$16 million in General Fund savings by limiting or eliminating some other Medi-Cal benefits. These changes include: (1) limiting enteral nutrition to tube feeding only for savings of almost \$14 million, (2) eliminating Medi-Cal coverage for over-the-counter cold and cough products for savings of about \$2 million, and (3) limiting annual hearing aid expenditures to \$1,510 per person for savings of \$229,000.

State Share of Intergovernmental Transfers. Counties and district hospitals may voluntarily transfer funds to DHCS under what are known as Intergovernmental Transfers (IGTs) for the purpose of providing increases in the rates paid to Medi-Cal managed care plans. The monies that counties and district hospitals transfer to the state draw down matching federal Medicaid monies, thus generating additional funding for managed care plans that ultimately is used to increase compensation for certain county- and district hospital-operated providers. Under the budget plan, entities that choose to submit these IGTs will pay a processing fee to the state equal to 20 percent of the IGTs. The estimated \$34 million in fee revenues generated from this proposal will be used to offset General Fund costs in Medi-Cal.

Department of Mental Health

The budget plan provides about \$4.6 billion from all fund sources for DMH programs. This is a decrease of about \$310 million, or 6.3 percent, compared to the revised prior-year spending level. Between 2010-11 and 2011-12, General Fund spending will decrease from about \$1.8 billion to \$1.3 billion, or about 29 percent.

This year-over-year decrease in General Fund support is mainly due to the one-time use of \$862 million in Proposition 63 (Mental Health Services Act) funds in lieu of General Fund monies to support three community mental health programs—EPSDT, MHMC, and so-called “AB 3632” mental health care for special education students. Another major factor affecting net General Fund expenditures for DMH programs was the expiration of the enhanced FMAP provided under ARRA and subsequent federal legislation which provided about \$167 million in General Fund relief to mental health programs in 2010-11. We discuss below the most significant spending changes included in the DMH budget.

Administration States Intent to Eliminate DMH and Create State Hospitals Department. In presenting its budget plan, the administration stated its intent to eventually eliminate DMH based on its rationale that this would achieve administrative efficiencies and provide more focused leadership for behavioral health services. Part of the administration's plan is to create a new Department of State Hospitals, again based on its rationale that this would improve fiscal accountability, create safer hospitals, and achieve other benefits. The administration indicated it will provide its plan to accomplish these objectives along with its 2012-13 budget proposal.

Shift of Some Mental Health Programs to DHCS. Consistent with the administration's plan to eventually eliminate DMH, the budget plan transfers administrative responsibility for EPSDT and MHMC to DHCS by June 30, 2012. The DOF must notify the Legislature regarding various aspects of the shifts, including the number and classification of the positions to be transferred and any potential fiscal effects on the programs from which resources are being transferred. Furthermore, the administration is required to provide a transition plan to the Legislature by October 1, 2011. We note that EPSDT and MHMC are included in realignment. We discuss the details of realignment elsewhere in this report.

Proposition 63 Funds Used to Support Services for Special Education Students. The budget plan uses \$99 million of Proposition 63 funds on a one-time basis to pay for mental health services for special education students. In the past, these services were supported in part with a General Fund appropriation in the DMH budget. Responsibility for providing these services is being shifted from the counties to the school districts as part of realignment. We discuss this shift in more detail earlier in this chapter.

Department of Developmental Services (DDS)

The 2011-12 budget provides \$4.6 billion in total funds for DDS programs. This is a decrease of \$113 million, or 2.3 percent, compared to the revised prior-year spending level. Between 2010-11 and 2011-12, General Fund spending will increase from about \$2.5 billion to \$2.6 billion, or about 7 percent. This net year-over-year increase in General Fund support is partly due to increases in caseload and utilization of services. Another major factor affecting net General Fund expenditures for DDS programs was the expiration of the enhanced FMAP provided under ARRA and subsequent legislation, which had provided about \$386 million in fiscal relief in 2010-11. Below, we discuss the most significant spending changes that were adopted in the DDS budget.

Measures to Contain Costs and Improve Transparency and Accountability. The budget plan achieves \$284 million in savings through a combination of measures to contain costs and improve transparency and accountability. For example, costs will be contained by implementing an annual family program fee for families with incomes above 400 percent of the federal poverty level

(about \$89,000 for a family of four in 2011). The budget plan also reflects about \$110 million in savings from various measures to improve the transparency and accountability of the community services program.

Extension of Regional Center Provider Payment Reduction. The budget plan extends a 4.25 percent provider payment reduction that has been imposed in recent years in order to achieve \$92 million in savings in 2011-12.

Assumption of Additional Federal Funds. The budget plan assumes \$78 million in additional federal funds resulting from the following initiatives: (1) modifications to the state's Home and Community-Based Services program of community services for persons with disabilities (\$60 million); (2) certification of Porterville Developmental Center to obtain federal Medicaid reimbursement for care provided to certain patients (\$13 million), and (3) an increase in Money Follows the Person grants intended to help promote the shift of disabled persons from institutions to the community (\$5 million).

Reduction in Funding for Developmental Centers (DCs). The budget plan includes several reductions to the DCs for a total of \$28 million in savings. These reductions reflect the consolidation of residences and programs, reductions in funding for operations, and the elimination of funding for some DC staff.

Trigger Reductions. As noted earlier, the final 2011-12 budget included several reductions that would only be triggered if state General Fund revenue estimates are later determined to be too high. Effective January 2012, these trigger reductions include up to \$100 million in unspecified savings in services for persons with developmental disabilities.

Department of Public Health (DPH)

The budget provides \$3.5 billion from all fund sources for DPH programs. This is an increase of \$188 million or about 5.6 percent compared to the revised prior-year spending level. Of this total, the spending plan provides \$226 million from the General Fund for DPH, an increase of \$40 million or 22 percent. This year-over-year increase is largely the result of increased General Fund support for ADAP.

Various Savings Measures. The budget plan includes several reductions to achieve a total of \$8.3 million in General Fund savings in various public health programs. Funding reductions to Licensing and Certification, the Laboratory Field Division, the County Health Services Section, and operating expenses and equipment achieve combined savings of \$4.5 million. Federal funds held in reserve for maternal and child health programs were redirected to offset \$1.7 million in General Fund costs, and \$1 million of General Fund support for a contract to support Valley Fever research was eliminated. The budget plan also reduces funding for the California Health Information Survey by \$572,000 and for health care surge standby costs by \$506,000.

revised prior-year spending level. Of this total, the budget package provides \$222 million from the General Fund for DADP, an increase of \$33 million, or 18 percent. The General Fund increase is due, in part, to the expiration of the enhanced FMAP provided under ARRA, which provided about \$17 million in fiscal relief in 2010-11. The General Fund spending level for DADP identified above for 2011-12 does not take into account the realignment of most state-supported substance abuse treatment programs to the counties. Doing so would have the effect of reducing the 2011-12 General Fund spending level by \$184 million. (The realignment package is discussed in more detail earlier in this chapter.) As part of the budget plan, the administration stated its intent to eventually eliminate DADP, citing what it views as a potential for greater administrative efficiencies and more focused leadership for behavioral health services.

Drug Medi-Cal Program Will Shift to DHCS. Consistent with the administration's plan to eventually eliminate DADP, administrative responsibility for the Drug Medi-Cal Program will be shifted to DHCS in 2011-12. The DOF must notify the Legislature regarding various aspects of the shift. Furthermore, the administration is required to provide a transition plan to the Legislature by October 1, 2011. We note that Drug Medi-Cal and some other programs administered by DADP are included in the realignment.

California Medical Assistance Commission (CMAC)

The budget plan requires CMAC to be dissolved after June 30, 2012. All of CMAC's powers, duties, and responsibilities would be transferred to the Director of DHCS along with CMAC executive and staff positions.

SOCIAL SERVICES

Overview of Total Spending Excluding Realignment. General Fund support for social services programs in 2011-12 totals \$9.1 billion, an increase of about \$80 million, or 0.9 percent, compared to the revised prior-year level. This modest increase is due to higher costs in county administration and automation and the child welfare system, partially offset by reductions in Supplemental Security Income/State Supplementary Program (SSI/SSP) grants. Figure 13 (see next page) shows the change in General Fund spending in each major social services program and department, excluding the impact of realignment.

The Impact of Social Services Realignment on General Fund Spending. Budget legislation realigns 100 percent of most child welfare system costs, 100 percent of APS costs and about 34 percent of CalWORKs costs to counties. Under this realignment, General Fund support for these programs will be replaced by 2011 realignment special fund spending. After accounting for realignment, General Fund spending for social services programs in 2011-12 is reduced by about \$2.7 billion, almost 30 percent below the revised

spending level for 2010-11. The 2011 realignment plan is discussed in more detail earlier in this chapter.

Summary of Major Changes. Figure 14 shows the major General Fund changes adopted by the Legislature for social services programs. Most of the budget reductions were in the CalWORKs, In-Home Supportive Services (IHSS), and SSI/SSP programs. Absent the changes shown in the figure, total General Fund spending for social services programs in 2011-12 would have been almost \$1.5 billion higher. Below, we discuss the major changes in each program area.

CalWORKs

The budget provides \$2.1 billion for the CalWORKs program in 2011-12, which is unchanged from the revised level of spending in the prior year. This amount does not include the impact of the 2011 realignment legislation, which shifts about \$1.1 billion in CalWORKs grant costs to the counties. Absent the major policy changes described below, CalWORKs spending would have increased by over \$800 million.

Extension of County Block Grant Reduction and Exemptions for One Year. For 2009-10 and 2010-11, the Legislature reduced the county block grants for welfare-to-work services and child care by approximately \$375 million each year. These reductions were accompanied by additional exemptions of

Figure 13

Major Social Services Programs and Departments

General Fund (Dollars in Millions)

	2010-11	2011-12	Change	
			Amount	Percent
Supplemental Security Income/State Supplementary Program	\$2,860.8	\$2,752.2	-\$108.7	-3.8%
California Work Opportunity and Responsibility to Kids	2,079.2	2,072.3	-6.9	-0.3
In-Home Supportive Services ^a	1,343.2	1,380.3	37.1	2.8
Child welfare system ^b	1,510.3	1,590.8	80.6	5.3
County Administration/Automation	607.5	671.8	64.3	10.6
Department of Child Support Services	335.2	321.6	-13.6	-4.1
Department of Rehabilitation	54.1	55.1	1.0	1.9
Department of Aging	32.8	32.5	-0.3	-0.8
All other social services (including state support)	215.7	240.5	24.9	11.5
Totals^a	\$9,038.7	\$9,117.2	\$78.4	0.9%
Estimated realignment savings ^c	—	-\$2,687.8	—	—

^a Does not reflect \$140 million in savings from medication compliance pilot. Such savings would most likely occur in Medi-Cal.

^b Includes Child Welfare Services, Foster Care, Adoption Assistance, Adoptions, and Child Abuse Prevention.

^c Savings not reflected in numbers above.

CalWORKs recipients from work participation requirements which allowed counties to manage the reduction by not providing services to the exempted families. The budget extends the block grant reduction and the exemptions for one additional year. After accounting for certain grant costs associated with the exemptions, this extension results in one-time savings of almost \$370 million.

Figure 14

**Major Changes—Social Services Programs
2011-12 General Fund Effect**

(In Millions)

Program	Amount
CalWORKs	
Extend two-year county block grant reduction for an additional year	-\$369.4
Reduce grants by 8 percent	-314.3
Establish 48-month time limit for adults	-102.9
Reduce earned income disregard	-83.3
Suspend Cal-Learn services for teen parents	-43.6
Limit license-exempt child care reimbursements to 60 percent	-30.6
Eliminate community challenge grants	-20.0
Reduce allocations for substance abuse/mental health and automation	-10.0
Repeal sanctions and time limits originally scheduled for July 2011	135.0
In-Home Supportive Services	
Achieve long-term care savings through medication dispensing devices	-\$140.0
Obtain additional federal funding through Community First Choice option	-128.0
Make health certification a condition of eligibility	-67.4
Reflect savings from lower than anticipated caseload	-53.7
End mandate for advisory committees	-1.5
Hold public authorities and counties harmless from caseload decline	7.1
Supplemental Security Income/State Supplementary Program	
Reduce grants to federal minimum for individuals	-\$183.4
Foster Care	
Shift responsibility for seriously emotionally disturbed children to schools	-\$68.0
Reflect additional cost of court-imposed rate increase	17.4
County Administration and Automation	
Delay Los Angeles county welfare system procurement	-\$13.0
Suspend child welfare system procurement	-3.0
Department of Child Support Services	
Suspend county share of collections (revenue)	-\$24.0
Department of Aging	
Reduce Multipurpose Senior Services Program	-\$2.5
Total	-\$1,499.1

Eight Percent Grant Reduction. Effective July 1, 2011, budget legislation reduces maximum monthly grants by 8 percent, resulting in ongoing annual General Fund savings of about \$314 million. Figure 15 shows the maximum monthly grant and CalFresh (formerly known as Food Stamps) benefits for a family of three in both high- and low-cost counties. As the figure shows, the net decrease in total monthly benefits is about \$40. Recipients in high-cost counties will receive total benefits equal to 72 percent of the federal poverty guideline. For low-cost counties, the total benefits are at 71 percent of the guideline.

Reduced Time Limit for Aided Adults. Budget legislation reduces from 60 to 48 the number of months that an adult may receive cash benefits. Although adults will be removed from the calculation of the family's grant, children will continue to receive aid in a program informally known as the "safety net." The shorter time limit results in combined grant and county block grant savings of \$103 million each year. Budget legislation also repealed prior laws which would have instituted shorter time limits and deeper sanctions in July 2011. This repeal results in foregone savings of about \$135 million.

Reduction in Earned Income Disregard. Under prior law, California "disregarded" (did not count) the first \$225 of monthly income and 50 percent of each dollar earned beyond \$225 when calculating a family's monthly grant. This policy provides a work incentive for families. Budget legislation modifies the grant calculation so that only the first \$112 of earned income and 50 percent of each dollar earned above that amount will be disregarded. This change in the disregard policy results in ongoing savings of about \$83 million annually.

Figure 15

**CalWORKs Maximum Monthly Grant and CalFresh Benefits
Family of Three**

	January 2011	July 2011	Change	
			Amount	Percent
High-Cost Counties				
Grant	\$694	\$638	-\$56	-8%
CalFresh benefits ^a	460	476	16	3
Totals	\$1,154	\$1,114	-\$40	-3%
Percent of Poverty	75%	72%		
Low-Cost Counties				
Grant	\$661	\$608	-\$53	-8%
CalFresh benefits ^a	470	484	14	3
Totals	\$1,131	\$1,092	-\$39	-3%
Percent of Poverty	73%	71%		

^a Formerly known as Food Stamps.

One-Year Suspension of Cal-Learn Program. The Cal-Learn program provides intensive case management to about 12,000 teen parents who remain in school. Depending on school performance, the teens may earn bonuses and sanctions. Budget legislation suspends the case management component of the program for one year, resulting in General Fund savings of \$44 million.

Reduction in Child Care Reimbursements. Under prior law, the state would reimburse license-exempt child care providers up to 80 percent of the regional market rate (RMR) ceiling. Effective July 1, 2011, the maximum reimbursement rate is reduced to 60 percent of the RMR. This results in CalWORKs child care savings of \$31 million and additional savings within CDE's child care budget.

Other Reductions. The budget eliminated \$20 million provided to DPH for the Community Challenge Grant project. This program aimed to reduce adolescent and unwed pregnancies while encouraging father-child involvement. The budget also reduced funding for substance abuse/mental health treatment and welfare automation by a total of \$10 million.

In-Home Supportive Services

The 2011-12 budget provides about \$1.4 billion from the General Fund for support of the IHSS program. This represents an increase of 2.8 percent for the program in 2011-12 over the revised prior-year level of spending. Funding for IHSS has experienced relatively slower growth than in the past due to reductions in the program. Below, we describe the major changes included in the 2011-12 budget for IHSS.

Community First Choice Option. The 2011-12 budget assumes that the state will qualify for additional federal funding available to states under the federal Affordable Care Act, also known as the federal health care reform legislation. This additional federal funding would be used to offset the General Fund costs for IHSS. Specifically, if California meets federal regulations still under development, the Community First Choice option could increase the federal share of costs of the IHSS program by 6 percentage points. (Until now, the federal government has generally paid 50 percent of program costs.) It is estimated that implementing this option would save \$128 million in the budget year. Future savings would depend on the overall spending in the program and the extent to which California can draw down these new federal funds.

Elimination of IHSS for Recipients Without a Health Certificate. Effective August 2011, the budget eliminates IHSS services for recipients lacking certification that indicates that, without IHSS, they would be at risk of out-of-home placement. The certificate must be signed by a licensed health care professional such as a physician, physician assistant, or public health nurse. The budget assumes that 10 percent of current and future recipients will not

obtain the health certificate, and will therefore lose IHSS eligibility. After accounting for administrative implementation costs, this eligibility change is estimated to save \$67 million in the budget year and over \$120 million when fully implemented.

Medication Compliance and Budget Cut Trigger. As part of the 2011-12 budget, the Legislature implemented a medication dispensing pilot program. By providing automated medication dispensing machines, the program is intended to improve medication compliance for Medicaid recipients who are at high risk of nursing home placement, hospital admission, and emergency room usage. Based on anticipated improvement in medication compliance, the budget plan assumes that the state will avoid \$140 million in health care costs at skilled nursing facilities, hospitals, and emergency rooms in 2011-12. Since the savings are expected to reduce health care costs, they would occur in the Medi-Cal budget rather than the Department of Social Services (DSS) budget.

Beginning October 1, 2011, budget legislation requires DHCS to provide quarterly reports to DOF on the implementation of these activities. If the DOF determines that the medication pilot project will not achieve \$140 million in annual savings, it must notify the Legislature of its conclusion by April 10, 2012. The Legislature then has until July 1, 2012 to enact legislation to modify the pilot project or to implement other options to achieve the ongoing savings beginning in 2012-13. If, after July 1, 2012, the DOF determines that the Legislature's additional actions will still not achieve \$140 million in savings, budget legislation authorizes an across-the-board reduction in IHSS hours for 2012-13 sufficient to ensure that the savings, coupled with any savings from the pilot project, reach \$140 million. We note that the across-the-board reduction has certain exemptions and processes in place for hour restorations for recipients who find that the reduction will put them at risk of out-of-home placement.

Slower-Than-Anticipated Caseload Growth. The budget reflects estimated savings of \$54 million in 2011-12 based on more recent data which show lower than estimated caseload growth.

Funding for Public Authorities and County Administration. The 2011-12 budget includes \$7.1 million in funding to hold county and public authority administrative allocations to the levels provided as of March 2011. Absent this legislative action, funding for counties and public authorities would have declined by an equivalent amount. Additionally, the Legislature adopted uncodified budget legislation requiring the department to work with the public authorities to develop a new rate-setting methodology for public authorities.

Trigger Reductions. As noted earlier, the final 2011-12 budget included several reductions that would only be triggered if certain revenue estimates are later determined to be incorrect. Effective January 2012, these trigger reductions

include (1) up to \$100 million in savings from a 20 percent across-the-board reduction to IHSS hours and (2) the elimination of up to \$10 million in funding for local antifraud activities. Similar to the medication compliance across-the-board reduction, budget legislation allows for certain exemptions and processes for hour restorations if recipients find that the across-the-board reduction puts them at risk of out-of-home placement.

Supplemental Security Income/State Supplementary Program

The budget provides \$2.8 billion from the General Fund for SSI/SSP. This is an overall decrease of \$109 million, or 4 percent, in funding compared to the revised 2010-11 spending level. This decrease is primarily due to grant reductions for individuals receiving SSI/SSP. These savings are partially offset by an increase in the program caseload.

Grant Reduction. Effective July 2011, the budget reduces SSI/SSP grants for *individuals* to the minimum amount allowable under federal law. The SSI/SSP grants for *couples* were reduced to the federal minimum as part of the 2009-10 Budget Act. The savings from this new reduction are estimated to be \$183.4 million in 2011-12. As seen in Figure 16, this action reduces maximum monthly grants for individuals by \$15 (1.7 percent).

Foster Care and Child Welfare Services

The budget includes about \$1.6 billion from the General Fund for children's programs, an increase of 5.3 percent from revised 2010-11 spending levels. This increase is primarily due to backfilling for the phase-out of federal ARRA funds, a technical shift of certain costs from CalWORKs to Foster Care, and a rate increase (described below). These budget totals do not reflect the impact of realigning 100 percent of most child welfare costs to the counties. The realignment proposal is discussed in more detail earlier in this chapter.

Court-Ordered Foster Family Home (FFH) Rate Increase. In May 2011, the U.S. District Court ordered DSS to immediately increase FFH rates based on a new rate methodology

Figure 16

SSI/SSP Maximum Monthly Grants

	Prior Levels	July 2011
Individuals		
SSI	\$674	\$674
SSP	171	156
Totals	\$845	\$830
Percent of Poverty^a	93%	91%
Couples		
SSI	\$1,011	\$1,011
SSP	396	396
Totals	\$1,407	\$1,407
Percent of Poverty^a	115%	115%

^a Compares grant level to federal poverty guideline. Poverty guideline is from 2011 U.S. Department of Health and Human Services guidelines.

developed by DSS at the direction of the court. The new methodology results in an average rate increase of 31 percent for current FFH cases and for future cases in the Adoption Assistance Program (AAP), Kinship Guardianship Assistance Payment (Kin-GAP), federal Kin-GAP, and Non-Related Legal Guardian programs. The court also ordered that rates be increased each year in accordance with the California Necessities Index (CNI). The 2011-12 budget reflects all of the above changes, including a 1.92 percent CNI COLA for all current and future cases effective July 1, 2011. The General Fund cost of these changes is \$17 million. Figure 17 displays the new FFH rates implemented in May and the 2011-12 rates, including the CNI COLA.

Repeal of AB 3632 Mandate for Seriously Emotionally Disturbed (SED) Children. Budget legislation repeals the mandate requiring DSS and county welfare departments to provide board and care for so-called AB 3632 SED children. Local school districts are instead responsible for their out-of-home placement.

This change results in a decrease of \$68 million in DSS board and care and administration costs, with a comparable cost increase in Proposition 98 funding. The education section of this report provides a further discussion of these actions.

County Welfare Automation Projects

Suspension of Child Welfare Services Project. The Child Welfare Services/Case Management System Web (CWS/Web) project would build a modern, web-based system to replace the current system, which is based on outdated technology and does not fully comply with federal system requirements. Project staff planned to select a vendor and begin development work by late 2012-13 at a cost of about \$70 million (all funds) annually for several years. Because the federal government is revising its requirements for such systems and escalating project costs, the Legislature suspended development of the CWS/Web project and canceled the current procurement. General Fund support for the project in the 2011-12 was reduced by \$3 million, leaving \$1 million for shutdown activities. In addition, trailer bill language directs DSS and the Office of Systems Integration, after consulting with stakeholders, to report by January 10, 2012 to the Legislature on (1) the current system's ability to support CWS practice, (2) the best approach to address missing

Figure 17

Revised Monthly Foster Family Home Rates

Child's Age	Prior Law	May 2011	July 2011 ^a
0 - 4	\$446	\$609	\$621
5 - 8	485	660	673
9 - 11	519	695	708
12 - 14	573	727	741
15 - 19	627	761	776

^a Rates shown for July reflect a court-ordered inflation adjustment.

functionality in the system, and (3) any next steps for implementing this approach, among other issues.

Los Angeles Project Delay. The Los Angeles Eligibility, Automated Determination, Evaluation and Reporting (LEADER) replacement system is one of three county-led consortia that make up the statewide automated welfare system. The LEADER system is nearing the end of its useful life and procurement of a replacement system has been under way for several years. The consortium recently selected a vendor to build the new system at an estimated total cost of \$485 million over the next four years. The administration proposed to indefinitely suspend the replacement project due to its high cost and indications that the federal government would not participate in funding its development until a long-term strategic plan for its three automated welfare systems was submitted and approved. Rather than indefinitely suspend development, the Legislature delayed the replacement project and reduced General Fund support by \$14 million in 2010-11 and \$13 million in 2011-12.

Department of Child Support Services

Suspension of County Share of Collections. Typically, when Local Child Support Agencies collect child support on behalf of families receiving CalWORKs, the county retains a portion (2.5 percent) of the collections. Most counties use these funds for the support of their CalWORKs programs. The 2011-12 budget package suspends the county share of collections for one year, which results in an increase in General Fund revenue of about \$24 million in the budget year.

Department of Aging

The budget provides \$33 million from the General Fund for the Department of Aging, a 1 percent decrease in funding compared to the revised 2010-11 funding level. Savings from a reduction in the Multipurpose Senior Services Program are largely offset by expiration of federal ARRA funding, which had previously been used to offset General Fund costs.

Reduction for Multipurpose Senior Services Program. In January, the Governor proposed the elimination of the Multipurpose Senior Services Program (MSSP). The Legislature instead reduced General Fund support for MSSP by \$2.5 million (about 13 percent) in 2011-12. Additionally, the Legislature adopted budget bill language requiring the Department of Aging to work with the federal government to reduce MSSP administration costs to help limit reductions in the number of recipients served by the program.

California Children and Families Commission

Fund Sweep Not Reflected in Budget. Chapter 4, Statutes of 2011 (AB 99, Committee on Budget), redirected \$1 billion in funding from the California Children and Families Commission—also known as the First 5 Commission, originally established by Proposition 10 in 1998—to offset General

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COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: REGIONAL CENTER CONFLICT OF INTEREST WAIVER REQUEST PROCEDURE

BACKGROUND: Welfare and Institutions Code Section 4628, provides that the director of the Department of Developmental Services may waive the conflict of interest criteria if a regional center has a good reason for being unable to meet all of the criteria set out in the law if both the local area board and Council approve the waiver. This waiver of conflict may not exceed one year pursuant to the WIC.

During the July Council meeting, a request for waiver of conflict was reviewed by the Council. The Executive Committee had previously denied the waiver and the full Council received the Executive Committee's denial and took action to approve the waiver.

During the discussion, the Council took action directing staff to develop a draft procedure for considering and acting on waiver requests.

**It is important to note that these procedures were developed with consideration of the current regulations which should have been amended by May 2011. Therefore, the draft procedure may need to also be amended when the new regulations are issued.*

ANALYSIS/DISCUSSION: Conflict of interest (COI) situations exist when a prospective or current regional center board member has an interest outside of their regional center board member duties that can affect their vote while on the regional center board. Therefore, a statutory and regulatory process has been established that waives (forgives) the legal criteria that create conflict and allows the individual to serve on the regional center board for a maximum of one year.

It is important to note that the decision by the area board and Council is to waive the conflict of interest **criteria** and not the conflict itself. This means that the individual may continue to have a conflict while sitting on the regional center board. Although they may take actions to mitigate the conflict, it will not be eliminated by virtue of the decision.

Attached is a draft procedure that provides the statutory and regulatory background for preventing, identifying and mitigating conflicts of interest. In addition, the attachment outlines considerations that the local area board should make in their analysis of the waiver request before submitting it to the Council for action.

COUNCIL STRATEGIC PLAN OBJECTIVE: By September 30, 2008, two hundred people with developmental disabilities and their family members will receive intensive

leadership development training to enable them to successfully hold leadership positions at the state and local level.

PRIOR COUNCIL/COMMITTEE ACTIVITY: During the July Council meeting, the Council requested that this process be drafted for consideration.

STAFF RECOMMENDATION(S): Review the draft waiver procedure and if it meets the Council's needs for evaluating future waiver requests, adopt the procedure.

ATTACHMENTS(S): Draft procedure and statutory authority.

PREPARED: Melissa C. Corral – August 26, 2011

BACKGROUND

The purpose of these procedures is to establish consistent evaluation criteria and process of requests for waivers in accordance with Welfare and Institutions Code Sections 4622 *et seq.* and Title 17 Section 54520. These procedures shall be used by the California State Council on Developmental Disabilities (Council) and local area boards.

*These procedures may be revised in accordance with imminent regulatory changes.

A. Regional Center Conflict of Interest Policy

The establishment and implementation of a conflict of interest policy and reporting process for regional centers (RC) is intended to minimize, if not eliminate, the occurrence of conflicts of interest in certain settings. This seeks to ensure that the RC board members act in the course of their duties solely in the best interest of the consumers and their families without regard to the interest of any other organization with which they are associated.

Each RC shall submit a conflict-of-interest policy to the Department of Developmental Services (DDS) by July 1, 2011, and shall post the policy on its Internet Web site by August 1, 2011. The policy shall do, or comply with, all of the following:

1. Be consistent with applicable law.
2. Define conflicts of interest.
3. Identify positions within the regional center required to complete and file a conflict-of-interest statement.
4. Facilitate disclosure of information to identify conflicts of interest.
5. Require candidates for nomination, election, or appointment to a RC board, and applicants for RC director to disclose any potential or present conflicts of interest prior to being appointed, elected, or confirmed for hire by the RC or RC governing board.
6. Require the RC and its governing board to regularly and consistently monitor and enforce compliance with its conflict-of-interest policy.

B. Conflict of Interest Reporting

Welfare and Institutions Code Section 4626(e-l) sets the process for reporting conflicts of interest. The reporting process is:

1. DDS is responsible for developing a Conflict of Interest Reporting Statement (Statement.)
2. The Statement shall be completed by each RC governing board member and executive director within 30 days of selection, appointment or election and annually thereafter. A Statement must also be completed upon any change in the status of the board member or executive director that creates a potential or present conflict of interest.
3. DDS and the appropriate RC governing board shall review the Statements of each board member and the executive director to ensure that no conflicts of interest exist; however, if a present or potential conflict of interest is identified for a board member or executive director that cannot be eliminated, the RC governing board shall submit to DDS and the Council, a copy of the Statement and a plan that proposes mitigation measures within 30 days (including timeframes and actions that the governing board or individual will take to mitigate the conflict of interest.)

The submission of this Statement and mitigation plan is not considered a request for waiver.

C. Conflict of Interest Criteria

California law outlines the criteria by which DDS evaluates conflicts arising among RC board members.

Additionally, it is expected that board members will be free from conflicts of interest that could adversely influence their judgment, objectivity or loyalty to the RC, its consumers or its mission.

Pursuant to Welfare and Institutions Code section 4626(b), no member of the governing board or member of the program policy committee of a RC shall be any of the following:

1. An employee of DDS or any State or local agency that provides service to a RC consumer, if employed in a capacity which includes administrative or policymaking responsibility, or responsibility for the regulation of the RC.

2. An employee or member of the Council or area board,
3. With the exception of a consumer advisory committee member, an employee or member of the governing board of any entity from which the RC purchases consumer services.
4. Any person who has a financial interest in RC operations, except as a consumer of RC services.

Title 17 provides additional conflict of interest criteria which may or may not encompass the criteria set forth in statute. In accordance with 17 CCR 54520, the following constitute conflicts of interest for RC board members:

5. When a member of the board or their family member is: a) a director, officer, owner, partner, shareholder, trustee or employee of any business entity or provider, b) holds any position of management in any business entity or provider or, 3) has decision or policymaking authority in such an entity or provider.
6. When the advisory committee board member is an employee or member of the governing board of a provider from which the RC purchases client services and engages in the fiscal matters. If so, this member is prohibited from serving as an officer of the RC governing board and from voting on fiscal matters or issues.
7. When a governing board member is any individual described in WIC 4626.

WAIVER OF CONFLICT OF INTEREST EVALUATION PROCESS

If there is good reason that a RC is unable to meet all of the criteria for their board, the director of DDS may waive the criteria for a period of time, not to exceed one year, with the approval of the appropriate area board and the Council in accordance with WIC 4628.

The Council/area board procedure for evaluating requests for waiver shall be:

1. When area board receives a request for a waiver, it shall be scheduled for discussion and action during the next available area board meeting.
2. When evaluating a request for waiver, the area board shall discuss and analyze the following:

- a. Does the RC have and utilize a public board member recruitment process? If not, what recruitment efforts were implemented with respect to the board member in question?
 - b. What specific criteria are involved in the request? Is the individual prohibited from serving based on the statute (C. 1-4 above) or regulation (C. 5-7 above) or both?
 - c. Does the proposed mitigation plan effectively address avoidance of the identified conflict of interest?
 - d. What impact will the approval/denial of the waiver have on the RC board?
 - e. Has the RC requested a wavier on behalf of the same individual before? If so, how long ago?
3. Upon evaluating the request, the area board shall take action to approve/deny the waiver request unless additional information is requested from RC.
4. Within 5 business days of taking action, the area board shall forward their analyses and action to the Council.
5. The Council shall schedule a discussion and action for the next available regular Council meeting. During the discussion, the Council shall review the area board analyses. The Council shall take action to approve/deny the waiver unless further information is requested from the area board.
6. The Council shall submit their action to DDS within 5 business days.

WELFARE AND INSTITUTIONS CODE SECTIONS 4626 - 4628

4626. (a) The department shall give a very high priority to ensuring that regional center board members and employees act in the course of their duties solely in the best interest of the regional center consumers and their families without regard to the interests of any other organization with which they are associated or persons to whom they are related. Board members, employees, and others acting on the regional center's behalf, as defined in regulations issued by the department, shall be free from conflicts of interest that could adversely influence their judgment, objectivity, or loyalty to the regional center, its consumers, or its mission.

(b) In order to prevent potential conflicts of interest, no member of the governing board or member of the program policy committee of a regional center shall be any of the following:

(1) An employee of the State Department of Developmental Services or any state or local agency that provides services to a regional center consumer, if employed in a capacity which includes administrative or policymaking responsibility, or responsibility for the regulation of the regional center.

(2) An employee or a member of the state council or an area board.

(3) Except as otherwise provided in subdivision (h) of Section 4622 (*consumer advisory committee*), an employee or member of the governing board of any entity from which the regional center purchases consumer services.

(4) Any person who has a financial interest, as defined in Section 87103 of the Government Code, in regional center operations, except as a consumer of regional center services.

(c) A person with a developmental disability who receives employment services through a regional center provider shall not be precluded from serving on the governing board of a regional center based solely upon receipt of these employment services.

(d) The department shall ensure that no regional center employee or board member has a conflict of interest with an entity that receives regional center funding, including, but not limited to, a nonprofit housing organization and an organization qualified under Section 501(c)(3) of the Internal Revenue Code, that actively functions in a supporting relationship to the regional center.

(e) The department shall develop and publish a standard conflict-of-interest reporting statement. The conflict-of-interest statement shall be

completed by each regional center governing board member and each regional center employee specified in regulations, including, at a minimum, the executive director, every administrator, every program director, every service coordinator, and every employee who has decisionmaking or policymaking authority or authority to obligate the regional center's resources.

(f) Every new regional center governing board member and regional center executive director shall complete and file the conflict-of-interest statement described in subdivision (e) with his or her respective governing board within 30 days of being selected, appointed, or elected. Every new regional center employee referenced in subdivision (e) and every current regional center employee referenced in subdivision (e) accepting a new position within the regional center shall complete and file the conflict-of-interest statement with his or her respective regional center within 30 days of assuming the position.

(g) Every regional center board member and regional center employee referenced in subdivision (e) shall complete and file the conflict-of-interest statement by August 1 of each year.

(h) Every regional center board member and regional center employee referenced in subdivision (e) shall complete and file a subsequent conflict-of-interest statement upon any change in status that creates a potential or present conflict of interest. For the purposes of this subdivision, a change in status includes, but is not limited to, a change in financial interests, legal commitment, regional center or board position or duties, or both, or outside position or duties, or both, whether compensated or not.

(i) The governing board shall submit a copy of the completed conflict-of-interest statements of the governing board members and the regional center executive director to the department within 10 days of receipt of the statements.

(j) A person who knowingly provides false information on a conflict-of-interest statement required by this section shall be subject to a civil penalty in an amount up to fifty thousand dollars (\$50,000), in addition to any civil remedies available to the department. An action for a civil penalty under this provision may be brought by the department or any public prosecutor in the name of the people of the State of California.

(k) The director of the regional center shall review the conflict-of-interest statement of each regional center employee referenced in subdivision (e) within 10 days of receipt of the statement. If a potential or present conflict of interest is identified for a regional center employee that cannot be eliminated, the regional center shall, within 30 days of receipt of the

statement, submit to the department a copy of the conflict-of-interest statement and a plan that proposes mitigation measures, including timeframes and actions the regional center or the employee, or both, will take to mitigate the conflict of interest.

(I) The department and the regional center governing board shall review the conflict-of-interest statement of the regional center executive director and each regional center board member to ensure that no conflicts of interest exist. If a present or potential conflict of interest is identified for a regional center director or a board member that cannot be eliminated, the regional center governing board shall, within 30 days of receipt of the statement, submit to the department and the state council a copy of the conflict-of-interest statement and a plan that proposes mitigation measures, including timeframes and actions the regional center governing board or the individual, or both, will take to mitigate the conflict of interest.

4626.5. Each regional center shall submit a conflict-of-interest policy to the department by July 1, 2011, and shall post the policy on its Internet Web site by August 1, 2011. The policy shall do, or comply with, all of the following:

(a) Contain the elements of this section and be consistent with applicable law.

(b) Define conflicts of interest.

(c) Identify positions within the regional center required to complete and file a conflict-of-interest statement.

(d) Facilitate disclosure of information to identify conflicts of interest.

(e) Require candidates for nomination, election, or appointment to a regional center board, and applicants for regional center director to disclose any potential or present conflicts of interest prior to being appointed, elected, or confirmed for hire by the regional center or the regional center governing board.

(f) Require the regional center and its governing board to regularly and consistently monitor and enforce compliance with its conflict-of-interest policy.

4627. (a) The director of the department shall adopt and enforce conflict-of-interest regulations to ensure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of the center's consumers and families.

(b) The department shall monitor and ensure the regional centers' compliance with this section and Sections 4626 and 4626.5. Failure to disclose information pursuant to these sections and related regulations may be considered grounds for removal from the board or for termination of employment.

(c) The department shall adopt regulations to develop standard conflict-of-interest reporting requirements.

(d) The department shall adopt emergency regulations to implement this section and Sections 4626 and 4626.5 by May 1, 2011. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.9 of the Government Code, and the department is hereby exempted from that requirement. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

(e) The department shall adopt regulations to implement the terms of subdivision (d) through the regular rulemaking process pursuant to Sections 11346 and 11349.1 of the Government Code within 18 months of the adoption of emergency regulations pursuant to subdivision (d).

4628. If, for good reason, a contracting agency is unable to meet all the criteria for a governing board established in this chapter, the director may waive such criteria for a period of time, not to exceed one year, with the approval of the area board in the area and with the approval of the state council.

17 CCR § 54520

Title 17 Section 54520. Conflict of Interest Standards for Regional Center Governing Board Members.

(a) The following constitute conflicts of interest for regional center governing board members:

(1) A conflict of interest exists when a member of the governing board or a family member of such person is a director, officer, owner, partner, shareholder, trustee or employee of any business entity or provider, holds any position of management in any business entity or provider, or has decision or policy-making authority in such an entity or provider, except to the extent permitted by Welfare and Institutions Code, Section 4626(a)(3) and (b). **These conflict of interest provisions are in addition to those stated in Welfare and Institutions Code, Sections 4622(a)(9) and 4626.**

(2) A conflict of interest exists when the advisory committee board member, appointed pursuant to Welfare and Institutions Code, Section 4622(a)(7), is an employee or member of the governing board of a provider from which the regional center purchases client services and engages in the activities prescribed in Welfare and Institutions Code Section 4622(a)(9). Such member is therefore prohibited from serving as an officer of the regional center governing board and from voting on the matters or issues described in Section 4622(a)(9). Furthermore, the member is subject to disclosure under Section 54522 of these regulations in addition to providing a list of his or her financial interests, as defined in Government Code Section 87103. Fiscal matters, as used in Welfare and Institutions Code Section 4622(a)(9) include, but are not limited to, setting purchase of service priorities, transferring funds to the purchase of service budget, and establishing policies and procedures with respect to payment for services.

(3) A conflict of interest exists when a governing board member is any individual described in Welfare and Institutions Code Section 4626. A financial interest in regional center operations, as used in Welfare and Institutions Code Section 4626(a)(4), exists if it is reasonably foreseeable that the member's interest, or the member's decision regarding that interest, will have a material financial effect, on the board member's interest in, or relationship with, the business entity or provider pursuant to Government Code, Section 87103. The financial effect is material if the decision will result in a benefit, detriment, gain, loss or profit to the member, entity or provider.

(b) The regional center governing board shall not enter or authorize the regional center to enter into any contract or any other type of agreement for pecuniary gain with any entity or provider in which a member has a conflict of interest as set forth in subsection (a)(1) and (a)(3) above, nor shall the board or board member allow the regional center to refer a client or prospective client to such an entity or provider.

(c) No regional center governing board member who has a conflict of interest shall continue to serve as a board member in violation of these provisions unless the board

member has eliminated the conflict of interest or obtained a waiver pursuant to these regulations. This prohibition does not apply to the extent it is precluded by Welfare and Institutions Code, Sections 4626(a)(3) and (b).

17 CCR § 54523

Title 17 Section 54523. Requests for Waiver.

(a) If the conflict of interest statement filed by the regional center governing board member or the regional center employee indicates that a present or potential conflict of interest exists and a waiver is being requested, then within thirty (30) calendar days of receipt of such a statement, the governing board or regional center shall, unless it has elected to do otherwise pursuant to Section 54522(c), submit the request for waiver packet in accordance with the procedures set forth in this section.

(b) All requests for waiver packets must be submitted to the Department. In addition, copies of requests for waiver packets involving governing board members must also be sent to the area board in the area and to the State Council.

(c) Requests for waiver packets shall include:

(1) A copy of the board member's or employee's conflict of interest statements;

(2) The request for waiver;

(3) The plan of action for resolution of his or her conflict of interest and the time frames for doing so; and

(4) Any limitations proposed by the governing board or regional center to be applied to the board member or employee during the term of the waiver. Limitations may include, but are not limited to:

(A) Abstention by the person from voting on the conflict of interest situations;

(B) Nonparticipation by the person, individually or as part of a group, in the preparation, presentation, formulation or approval of reports, plans, policies, analyses, opinions or recommendations regarding the conflict of interest situation, when the exercise of judgement is required and the purpose is to influence the decision;

(C) Noninvolvement of the person in the negotiation, obligation, or commitment of the regional center to a course of action involving the conflict of interest situation;

(D) Reassignment of the person to duties or responsibilities where no conflict of interest exists; and

(E) Establishment of an independent review and prior approval procedure by supervisors or administrative staff regarding purchase of service and other decisions made by the person with respect to the conflict of interest situation.

(5) The individual(s) responsible for ensuring that the above plan of action or limitations are applied and monitored;

(6) Any other information which the employee or board member feels is pertinent to his or her request.

17 CCR § 54524

Title 17 Section 54524. Response to Requests for Waiver.

(a) Within twenty (20) calendar days after the area board in the area and the State Council receive copies of a request for waiver packet regarding a regional center governing board member, the area board in the area and the State Council, respectively, shall provide to the Department their written approval or disapproval of such request. The Department may not approve the request for waiver of a regional center governing board member without the approval of both the area board in the area and the State Council.

(b) Within sixty (60) calendar days after the Department receives a request for waiver packet the Department will respond to the request for waiver in writing:

(1) Explaining the outcome of its review including approval or denial of the request, where appropriate, and the rationale for the decision;

(2) Specifying the actions, if any, by the governing board or regional center which the Department deems necessary in order to resolve the conflict of interest; and

(3) Stating the duration of the waiver, if approved, according to the following:

(A) For the members of the governing boards who are subject to those regulations, the duration of the waiver may not exceed one year;

(B) For the regional center employee, the duration of the waiver will be determined by the Department.

(c) If the request for waiver is denied by the Department and/or the State Council or area board in the area pursuant to subsections (a) and (b) herein, the governing board member or regional center employee shall have thirty (30) calendar days from the date of receipt of the denial in which to either take whatever action is necessary to eliminate the conflict of interest or resign his or her position as a governing board member or regional center employee. During this thirty (30) calendar day period, the board member

or employee shall avoid all involvement with and participation in the conflict of interest in question.

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: RCRC CONFLICT OF INTEREST WAIVER RENEWAL REQUEST

BACKGROUND: Pursuant to Welfare and Institutions Code Section 4628 and California Code of Regulations, Title 17 Section 54524, both the local area board and State Council must approve or deny conflict of interest (COI) requests submitted by regional centers.

ANALYSIS/DISCUSSION: COI situation(s) occur when a prospective or current regional center board member has an interest outside of their regional center board member duties that can affect their vote while on the regional center board. Therefore, a process had been established in the regulations that waives (forgives) the conflict of interest criteria for a maximum of one year and allows the individual to serve on the regional center board during the waiver period.

Today, there is one request:

1) *Redwood Coast Regional Center – Ms. Beverly Fontaine – Approved by AB 1*

Ms. Fontaine is currently employed by the Department of Social Services – Adoptions Bureau in Arcata, CA. Ms. Fontaine's duties include locating adoptive families for children in foster care; some of the children who are identified for placement are served by the local regional center.

Ms. Fontaine states that she does not receive any financial incentive for placing children in particular homes nor does she receive any other personal gain. It is important to note that the Department of Social Services is a State agency and is not a vendor of the regional center. (Note from Carol Risley: it is unclear why a waiver request was originally deemed necessary and now being renewed as it appears no conflict exists. Further, there are no provisions in law or regulations addressing the authority to renew COI waiver requests, only language indicating waivers are for a maximum of one year.)

COUNCIL STRATEGIC PLAN OBJECTIVE: QA1.1 by September 30, 2008, 200 people with developmental disabilities and their family members will receive intensive leadership development training to enable them to successfully hold leadership positions at the state and local level.

PRIOR COUNCIL ACTIVITY: The Council Executive Committee approved a one year waiver for Ms. Fontaine in October 2010.

STAFF RECOMMENDATION: None because of the lack of clarity regarding the need for the waiver and the authority to grant waiver renewals. The Council should take what action it deems appropriate.

ATTACHMENTS(S): The background information with area board letter.

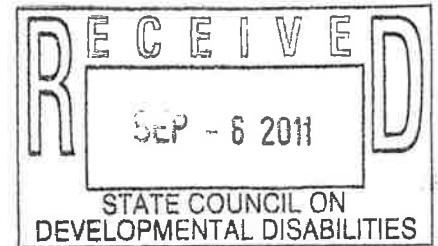
PREPARED: Melissa C. Corral September 7, 2011



AREA I DEVELOPMENTAL DISABILITIES BOARD

P.O. BOX 245, UKIAH, CALIFORNIA 95482-0245

PHONE (707) 463-4700
CALNET 553-4700
FAX (707) 463-4752



September 1, 2011

Carol Risley
State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95814

Re: Redwood Coast Developmental Services Corporation's Request for Waiver
for Beverly Fontaine

Dear Carol,

The Area One Developmental Disabilities Board received a request for waiver from the Redwood Coast Developmental Services Corporation. A waiver was requested for the following individual: Beverly Fontaine

The Area One Board has reviewed the documentation sent to us on Beverly Fontaine and supports the granting of this waiver. She has served the Redwood Coast Developmental Services Corporation Board with distinction in the past and we are confident that she will continue with her excellent representation.

I have attached the information sent to us, and would be happy to answer any questions or speak to any of your concerns.

Thank you for your attention to this matter.

Sincerely,

Dawn Morley
Executive Director

Cc: Clay Jones
Donna Landry-Rehling
Allan Smith
ABI Board Members




Redwood Coast Regional Center

Respecting Choice in the Redwood Community

August 12, 2011

TO: State Council on Developmental Disabilities
Area I Board – Attn: Dawn Morley

FROM: Donna Landry-Rehling, Executive Assistant, RCRC 

RE: Beverly Fontaine - Request for Waiver of Conflict of Interest

Here is the complete waiver request packet on behalf of Beverly Fontaine. Ms. Fontaine has been selected to hold the position of President of the RCDSC Board of Directors once again. This enclosed request packet is being sent to the DDS in order to satisfy the requirements as stated in Title 17, section 54523.

RCRC, its board of directors, and Ms. Fontaine are hopeful that the request for a waiver of conflict of interest will be resolved by the information included in this packet and that Ms. Fontaine can continue to serve RCRC's consumers, families and the community.

Please contact me with any questions – 707 445-0893, ext. 317. Thank you.

Enclosures

Cc: Rita Walker
Allan Smith

DL-R

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 525 2nd Street, Ste. 300 • Eureka, CA 95501 • (707) 445-0893

☐ 1116 Airport Park Blvd. • Ukiah, CA 95482 • (707) 462-3832

☐ 1301 A Northcrest Dr. • Crescent City, CA 95531 • (707) 464-7488

☐ 270 Chestnut St., Suite A • Fort Bragg, CA 95437 • (707) 964-1007

☐ 180 3rd St., Lakeport, CA 95453 • (707) 262-0470



REDWOOD COAST DEVELOPMENTAL SERVICES CORPORATION

BOARD OF DIRECTORS

Providing Services to Del Norte, Humboldt, Lake & Mendocino Counties
Through
Redwood Coast Regional Center

CONFLICT OF INTEREST DISCLOSURE STATEMENT

NAME: Beverly Fontaine

POSITION: Board Member
(president)

(check one):

Governing Board Member ☒
Regional Center Employee ☐

Type of Submission (check one):

Initial ☐
Annual ☒
Other ☐

If Governing Board Member (check one of the following):

☒ Elected Member
☐ Appointee of the Community Advisory Committee
☐ Other (specify) _____

I HAVE READ STATE REGULATIONS TITLE 17, CALIFORNIA CODE OF REGULATIONS, DIVISION 2,
CHAPTER 3, SUBCHAPTER 3, ARTICLE 1, UPON WHICH I DECLARE UNDER PENALTY OF PERJURY:
(check as applicable)

- ☐ 1) No potential conflict of interest exists.
☐ 2) No present conflict of interest exists.
☒ 3) A present or potential conflict of interest exists.

If 1 and 2 are checked, sign, date and submit this statement to the regional center's Executive Assistant. Subsequent statements must be submitted within one year of this filing, earlier if the conflict of interest status changes. If either 1 or 2 is not checked, or if 3 is checked, the additional information required pursuant to these regulations must accompany this statement. Sign and date this statement and submit everything to the regional center's Executive Assistant.

Beverly Fontaine
Signature
8-5-2011
Date

This space to be filled out by regional center or its
Governing board, as appropriate.

Reviewed by:

Carolee Rehling
Name (print)
[Signature]
Signature

Approved by:

Name (print)

Signature

Date

8-11-11

/dl



REDWOOD COAST DEVELOPMENTAL SERVICES CORPORATION



BOARD OF DIRECTORS

Providing Services to Del Norte, Humboldt, Lake & Mendocino Counties
Through
Redwood Coast Regional Center

REQUEST FOR WAIVER FORM

I, the undersigned, have reviewed and applied the statutes and regulations concerning conflict of interest determinations to my personal and business affairs and now believe that I have a _____ [*present or potential*] conflict of interest.

I have disclosed and described the _____ [*present or potential*] conflict of interest in the conflict of interest disclosure statement filed by me on _____ [*date*]. A copy of my disclosure statement is attached hereto.

I am now requesting that the potential [*present or potential*] conflict of interest be waived. In support of my request for waiver, I suggest the following plan of action to resolve the potential [*present or potential*] conflict of interest.

[*Describe suggested plan for resolution of conflict*]: _____

please see attached letter

While this request for waiver is under review, I suggest that the following limitations be placed on my position, which will enable me to avoid actions involving the conflict of interest. (*Describe suggested limitations during review period*): _____

please see attached letter

Dated: 8-5-11

Beverly Fontaine
(Print Full Name)

Beverly Fontaine
(Signature)

Attachment
RCDSC - DL 7/00

Beverly Fontaine
1485 Stallion Court
McKinleyville, CA 95519

August 11, 2011

TO: State Council on Developmental Disabilities and Area 1 Board, attention Dawn Morley

I am writing this letter to provide further clarification on a recent request I submitted for the annual renewal of a waiver for a potential conflict of interest regarding my service on the Redwood Coast Regional Center's (RCRC) Board of Directors. This letter includes a plan of action for any potential conflict of interest, and limitations to help me avoid any potential conflict of interest. This is an annual submission for a waiver, the first request and letter were submitted on April 22, 2010 and subsequently approved. The facts in that request remain the same, and my job position and duties have not changed.

I have a daughter who is autistic and developmentally delayed, and is a consumer of the RCRC. I am employed by California Department of Social Services (DSS), Adoptions Bureau at their district office in Arcata, CA. I have consulted with my supervisor at my work, Sutie Wheeler, who is the District Manager of our Arcata Adoption branch office. She continues to believe that there is no conflict of interest between my work in adoptions and serving on the Board. We received a letter from the DSS Personnel Bureau Incompatible Activities Coordinator in which DSS approved my volunteer work for the RCRC Board to March 2014. A copy of this letter is submitted with this request.

In my adoption work, I find adoptive families for children in foster care, and some of those children may be RCRC consumers. I do not receive any monetary benefit in placing RCRC children in adoptive homes, nor do I receive any sort of favors for the children or the adopting families because of my position on the Board. I do approve the standard Adoption Assistance Program (AAP) benefits for the families, and if the child is an RCRC consumer, the AAP is higher because of set RCRC adoptive rates being higher than ordinary AAP rates, but these rates are standardized by the age of the child and the degree of disability, so I do not have any control over these rates. The time constraints regarding when AAP begins on any case and when a child's adoption can be finalized by the Court are also standards that are set by adoption law, and thus the timing of funding sources are also not within my power to control on any given case.

I submit the following plan of action:

During my term as Board member and Board president I shall not vote on any issue related to my employment with DSS which comes before the Board. This includes issues related to adoption services in general, placement of children into adoptive homes who may be consumers, and any issues related to Adoption Assistance benefits for children served in the course of my employment.

During my term on the Board and as Board president, I shall not participate individually or as a member of a committee in the development, presentation, or approval of any agency plans, reports, policies, analysis, opinions or recommendations related to my employment with DSS Adoptions Services.

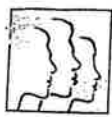
During my term on the Board and as Board president, I shall not negotiate, obligate, or commit RCRC to a course of action which involves CA Adoptions Services or persons or entities involved with CA Adoptions services.

Thank you and I hope this offers the information you need to help you recommend the renewal of this waiver.

Sincerely;



Beverly Fontaine, MSW, ACSW (707) 839-1492
Proud Mother of Kristin Fontaine, RCRC consumer



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

April 4, 2011

TO: BEVERLY FONTAINE
MS #28-16

FROM: LISA HUDSON
Incompatible Activities Coordinator
Personnel Bureau

SUBJECT: INCOMPATIBLE ACTIVITY APPROVAL

This memo is in response to the Incompatible Activity Certification you filed on May 3, 2010. You stated your outside activity as being a Board Member on the Board of Directors for the Redwood Coast Regional Center.

Please be aware Government Code Section 19990 prohibits a state officer or employee from engaging in any employment activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Based on the above information and after consulting with the appropriate California Department of Social Services (CDSS) staff, your outside activity is determined to be permissible subject to the following restrictions:

1. Do not at any time use the name and prestige of your CDSS position for personal gain or advantage or for the personal gain or advantage of another.
2. Speaking on behalf of the CDSS in these activities is not allowed at any time.
3. Do not knowingly perform any act that may be later subject, directly or indirectly, to control, inspection, review, audit or enforcement unless that act was part of your official duties.
4. Performance of these activities is to be on your own time and with your own resources.

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5. It is not permitted for this activity to make such demands of your time or energy as would render the performance of your duties as a CDSS employee less efficient.
6. State telephones, equipment, or office supplies are not to be used for this activity.
7. This outside activity approval is limited to a three-year period, or until you change jobs, whichever occurs first. When either of these situations occurs, you must resubmit your request for this activity through the approved Incompatible Activity process. The three-year period expires March 28, 2014.

It is your responsibility to notify your immediate supervisor and the Personnel Incompatible Activities Coordinator if this letter inappropriately represents the description of this activity or if the circumstances associated with this activity change so as to present the potential for incompatibility with your duties with CDSS.

If you have further concerns regarding this matter, please contact Lisa Hudson at (916) 657-3473 or send an e-mail to Lisa.Hudson@dss.ca.gov.

c: Sutie Wheeler

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: MERIT SALARY ADJUSTMENTS (MSA)

BACKGROUND: The issue of salary adjustments for exempt employees was raised by the Executive Committee during their meeting on August 16, 2011. Based upon this discussion, the Council Executive Director issued a series of questions to SCDD Staff Counsel for analysis to assist the Council in discussing the relevant issues.

The questions are: 1) What are the differences between exempt and civil service employees? 2) What are Merit Salary Adjustments (MSAs) and when do they apply? 3) What/who is an appointing authority? 4) Who has the authority to determine salary adjustments for exempt employees at the Council?

ANALYSIS/DISCUSSION: **Civil Service Employees:** Civil service employees include every employee of the State with the exception of exempt staff. In civil service, permanent appointment and promotion is made under a general system based on merit as determined by competitive examination.

Exempt Employees: Exempt employees are created by the California Constitution in Article 7, Section 4 and are exempt from California civil service laws and procedures. Therefore, laws that apply to civil service employees do not apply to exempt employees. Generally, exempt employees are legislators, judicial branch employees, directors and deputy directors of State agencies, Governor's staff, etc., who serve at the pleasure of the appointing authority. As such, there are no examinations or a merit based promotion structure for exempt employees.

The SCDD has authority for the following exempt employees: 1 Executive Director of the Council, 13 area board executive directors, 3 deputy directors, 2 analysts (legislative and public policy) and 1 specialist for a total of 20 exempt staff.

Salary and Merit Salary Adjustments (MSAs): For civil service employees, the Department of Personnel Administration (DPA) is required to establish minimum and maximum salary ranges with intermediate steps (California Government Code Section 19829.) Those intermediate steps are usually 5% increases with the highest level of the range being 20% - 25% higher than the beginning. In accordance with civil service and bargaining rules, DPA must negotiate wages, hours and other working conditions for represented employees.

Also, within the civil service structure, MSAs must be provided to employees with a satisfactory performance evaluation after every 12 months until the employee reaches the maximum salary of the range (Government Code Section 19832). Each MSA is equivalent to one of the intermediate steps of the salary range (5%). Satisfactory

performance is determined by an annual performance evaluation conducted by the employee's supervisor.

The only legal reasons to deny a MSA are: 1) the unsatisfactory performance of the employee or, 2) certification by DPA that there is not sufficient money available for the purpose in the appropriation from which the salary shall be paid. If there are insufficient funds, the civil service employee retains the right to accumulate two years of entitled MSAs. In fact, in several documents, the MSA is referred to as an "automatic salary adjustment" since the increase will be processed unless the supervisor takes steps to deny the MSA.

For exempt employees, if their salary is not set in statute (as is the case for employees of SCDD), they come under the salary approval authority of DPA. For these employees, the appointing authority makes a salary range recommendation to DPA and DPA approves a salary range for each position and determines any annual increase (Government Code Section 19825).

Exempt employees do not receive MSAs since exempt employees do not have intermediate steps within the DPA established range; however, exempt employees are eligible for a 5% increase on their annual anniversary date. In fact, the State Controller's Office automatically computes the increase at 5% above their current salary until the exempt employee reaches the top of their current range (DPA Exempt Salary Schedule, February 2011, page 79). In addition, exempts generally receive the same increases provided to comparable civil service employees.

A final note with regard to compensation: DPA tries to maintain appropriate salary differentials between classes within the same career pattern. For example, the maximum salary for a supervisor is generally 10 percent above the maximum salary for any employee that they supervise.

Appointing Authority: The term "appointing authority" is generally defined as the officer, commission or body having the power of appointment to subordinate positions. Although the term "appointing authority" is sometimes used interchangeably with managerial and/or supervisory control, at times that is not the case.

The appointing authority has the role of making the final decision with respect to appointment; however, they may not have a direct supervisory role for a specific employee (either civil service or exempt). For example, the department head of a State agency is normally considered the appointing authority of that entire department; however, supervisory responsibility (including performance review and MSA approval) is delegated to the appropriate supervisor.

For SCDD, Welfare and Institutions Code Section 4551(a)(1) sets forth the appointment authority for specified exempt SCDD staff: "...the state council

chairperson, with the concurrence of a majority of the state council, shall appoint an executive director and, pursuant to paragraph (1) of subdivision (c) of Section 4553, shall appoint an executive director for each area board.”

Furthermore, WIC 4553(c)(1) provides that, “each area board shall have an executive director, nominated by the affirmative votes of a majority of the members of the area board, appointed by the executive director of the state council , and approved by the state council. The executive director shall select and supervise persons to serve in any staff positions as the area board and state council may authorize, pursuant to subdivision (a) of Section 4551.”

For the remaining exempt staff, WIC 4551 (a)(1) provides that “the Governor upon the recommendation of the executive director of the state council, following consultation with the area boards, shall appoint a deputy director for area board operations. The Governor, upon recommendation of the executive director of the state council, shall appoint not more than two deputy directors.”

Therefore, the appointing authority for the Executive Director of the Council is the Chairperson of the Council, the appointing authority for all area board directors is the Executive Director of the Council with approval of the full Council and, the appointing authority for the remaining exempt staff is the Governor of California upon the recommendation of the SCDD Executive Director.

Determination of Salary Adjustments for Exempt Employees: The Department of Justice, through the Attorney General’s Office (AGO) has interpreted the relevant WIC sections above to provide that the staff of the area boards, *“including area board executive directors, are managed by and answerable to, the Executive Director of the State Council”* (Advice Letter Regarding the Effects of Senate Bill 1630, May 7, 2003, page 1).

Additionally, the AGO has interpreted WIC 4552 as “requiring all personnel employed by the State Council to be solely responsible, organizationally and administratively to the State Council” (Advice Letter Regarding the Effects of Senate Bill 1630, May 7, 2003, page 5). In fact, the AGO concluded that the law supports the organizational structure of the SCDD as follows: area board directors “report directly to the State Council Deputy Director for Area Board Operations, who, in turn, reports to...the Executive Director of the State Council” (Advice Letter Regarding the Effects of Senate Bill 1630, May 7, 2003, page 6).

Therefore, considering the applicable WIC sections and the AGO interpretation, the Executive Director of the Council has the final authority for approving salary increases within the DPA established salary range for the area board executive directors and all other exempt staff.

Determination of Salary Adjustments for the Executive Director of the Council:

Because the appointing authority of the Executive Director of the Council is the Chairperson of the Council and there is no delegated supervisory agent, the relevant WIC section clearly supports that the Chairperson of the Council has the final authority for approving salary increases within the DPA established salary range with approval of the full Council.

COUNCIL STRATEGIC PLAN OBJECTIVE: Improve the SCDD organization and operations to effectively support the SCDD Vision and Mission and work collaboratively with other pertinent state agencies.

PRIOR COUNCIL/COMMITTEE ACTIVITY: NA

RECOMMENDATION(S): Staff recommends that Council develop a policy consistent with relevant law and State procedures.

ATTACHMENTS(S): None

PREPARED: Melissa C. Corral – August 30, 2011

COUNCIL AGENDA ITEM DETAIL SHEET

ISSUE: Annual Evaluation of the Council Executive Director
(Closed session pursuant to Government Code, section 11126 (a) (1) to consider the appointment, employment, evaluation of performance, or dismissal of a public employee.)

BACKGROUND: The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (federal DD act), requires that the Executive Director of the Council be evaluated on an annual basis.

In June 2011, the Council's executive director evaluation instructions and tool was mailed to all Council members. In addition, area board executive directors and headquarters staff were offered the opportunity to provide input to the narrative questions on the tool. All input was submitted directly to the Council chairperson.

On August 9, 2011, the Executive Committee held a closed session, pursuant to Government Code, section 11126 (a) (1) to review the evaluation outcomes. It then reconvened in open session and provided an evaluation report to the executive director.

Consistent with the process, the Executive Committee will "present the evaluation and their recommendation to the full Council..."

ANALYSIS/DISCUSSION: No discussion regarding compensation may be held in closed session. Staff Counsel will be presenting background on compensation issues related to exempt employees (SCDD deputies, some headquarters' specialists and area board directors) in open session prior to this item.

COUNCIL STRATEGIC PLAN OBJECTIVE: None

PRIOR COUNCIL ACTIVITY: See background above.

EXECUTIVE COMMITTEE RECOMMENDATION(S):

ATTACHMENT(S): State Council Executive Director Evaluation Tool and Process

PREPARED: Carol J. Risley, August 29, 2011



STATE COUNCIL ON DEVELOPMENTAL DISABILITIES EXECUTIVE DIRECTOR EVALUATION

I. PROCESS

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (federal DD act), requires that the Executive Director of the Council be evaluated on an annual basis.

The process for evaluating the Executive Director is:

1. The Chairperson of the Council coordinates the Executive Director Evaluation. He/she distributes the Performance Evaluation Form.
2. Each Council member must complete the Performance Evaluation Form. Once completed, the form must be returned to the Chairperson.
3. Staff members will be sent Narrative Questions only. These must be returned to the Chairperson.
4. The Executive Director will complete the Performance Evaluation Form for herself/himself and discuss her/his self evaluation with the Chairperson.
5. Each Performance Evaluation Form is logged onto a worksheet and summarized.
6. A final summary report is produced.
7. The Executive Director Evaluation will be on the September Council Meeting agenda as a closed session item.
8. In open session, the Executive Director and Council then meet to discuss salary/bonus, etc.
9. This information is then processed through the Council Personnel Department.

II. INSTRUCTIONS

Please use the rating levels: “**N/I**” (Needs Improvement) “**A**” (Meets Standards/Acceptable), or “**O**” (Exceeds Standards/Outstanding). If you do not know about a particular area, mark **Do Not Know**.

Rating Factor	Needs Improvement (N/I)	Meets Standards Acceptable (A)	Exceeds Standards Outstanding (O)
Work quantity	Executive Director does not produce enough work.	Executive Director produces the proper amount of work.	Executive Director produces a lot of work.
Work Quality	Executive Director does not have work skills.	Executive Director has the work skills and works accurately.	Executive Director's work is always accurate and orderly and works with superior skill.

III. EXECUTIVE DIRECTOR EVALUATION

ASSISTANCE TO COUNCIL MEMBERS	Don't Know	Needs Improvement	Acceptable	Outstanding
Assists the Council in scheduling, planning and preparing for Council and committee meetings.				
Assists the Council in the development of agency policy, organizational goals, objectives and budgets.				
Assists the Council in the development of policy decisions regarding issues that affect the rights and interests of persons with disabilities.				
Assists the Council in making sure that the Council follows all federal and state laws and regulations, including providing and interpreting information.				
Assists the Council in the development of the goals and objectives of the Council's 5 year state and strategic plan.				
Provides regular reports to the Council on the state and strategic plan and emerging issues and provides recommendations.				

PERSONNEL	Don't Know	Needs Improvement	Acceptable	Outstanding
Assures that staff are supervised and coordinated effectively in order to carry out all of the Council's goals and objectives.				
BUDGET				
Develops, implements and manages the Council approved budget.				
Ensures that budget is legal and uses acceptable accounting and fiscal management practices.				
Assures that the Council receives budget information.				
Makes contracts on behalf of the Council consistent with approved goals, objectives, plans and budget actions.				

PUBLIC AND AGENCY LIAISON	Don't Know	Needs Improvement	Acceptable	Outstanding
Maintains effective relationships between the Council, the federal Administration on Developmental Disabilities and State funding agencies.				
Maintains effective relationships and works with other advocacy organizations with similar goals and objectives.				
Maintains effective relationship and liaison with the National Association of Councils on Developmental Disabilities (NACDD).				
ADAPTABILITY RATING				
Able to assume a variety of roles and responsibilities related to the position and perform with required knowledge/skills.				
Able to respond well to changing job requirements and work conditions, including unanticipated/exceptional administrative and/or programmatic events.				

EXPRESSION	Don't Know	Needs Improvement	Acceptable	Outstanding
Able to clearly/concisely convey information (e.g., interpreting regulations, presenting reports, articulating needs/priorities, giving instructions) orally and in writing.				
Able to organize coherent presentations and effectively highlight/summarize key points and issues.				
INTERPERSONAL RELATIONS				
Demonstrates sensitivity and good judgment.				
Is helpful and friendly.				
Resolves conflicts in an objective manner.				

IV. NARRATIVE QUESTIONS

1. What impressed you the most about the Executive Director's performance this year?
2. In what areas has the Executive Director shown exceptional improvement?

3. What specific recommendations do you have for the Executive Director?
4. What should be the priorities for the Executive Director over the next year?
5. Do you have any additional comments regarding the Executive Director's performance?

Council Member Signature

Date

EXECUTIVE DIRECTOR EVALUATION 2011 TIMELINE

December 14, 2010	Provide a draft evaluation tool to the Executive Committee Meeting for revision.
January 19, 2011	Provide the revised draft tool from the Executive Committee to the full Council for comments and revision.
February 8, 2011	Executive Committee will review the comments and suggested revisions and incorporate/revise the tool as appropriate
March 16, 2011	Final evaluation tool submitted to the full Council for approval.
June 15, 2011	Evaluation will be sent out to all appropriate persons with a return date of July 30, 2011 to the evaluation coordinator.
August 9, 2011	Evaluation coordinator will present the evaluation materials, statistical data and all information to the Executive Committee during a closed session.
September 20 -21, 2011	Executive Committee will present the evaluation and their recommendation to the full Council during a closed session.